PUBLIC MATTER

STATE BAR COURT

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **DAMIAN S. TREVOR** No. 211256, **ALLAN C. HENDRICKSON,** No. 216043, **SHANE CHANG HAN,** No. 219961 Members of the State Bar.	**Case Nos. 03-TE-00998-RAH** **03-TE-00999; 03-TE-01000** **DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

I. INTRODUCTION

This matter is before the Court on the verified application of the Office of the Chief Trial Counsel of the State Bar of California ("State Bar") seeking to involuntarily enroll Respondents Damian S. Trevor, Allan Charles Hendrickson and Shane Chang Han as inactive members of the State Bar pursuant to Business and Professions Code section 6007(c) and rule 460 of the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar ("rule(s)"). The State Bar's Application is based upon declarations and exhibits alleging that Respondents committed multiple acts of serious misconduct involving moral turpitude, dishonesty or corruption, including the filing of unjust suits; misappropriating funds; engaging in the unauthorized practice of law or aiding and

abetting same; charging and/or collecting unconscionable fees; and appearing for parties without authority, among other things.

All three Respondents have been represented throughout this proceeding by Kevin Gerry. Respondent Shane Han associated as co-counsel on April 17, 2003. The State Bar is represented by Deputy Trial Counsel Jayne Kim and Kimberly Anderson.

For the reasons stated below, this Court finds that the State Bar has proven by clear and convincing evidence that Respondents have engaged in misconduct that has caused significant harm to clients and the public, that there is a reasonable likelihood that the harm will recur or continue, and that there is a reasonable probability that the State Bar will prevail on the merits of the underlying disciplinary matters.

IT IS THEREFORE ORDERED that each Respondent shall be involuntarily enrolled as an inactive member of the State Bar pursuant to Business and Professions Code section 6007(c)(1), effective three (3) days after service of this Order by mail.

II. PROCEDURAL HISTORY

On March 13, 2003, the State Bar filed an Application to have Respondents involuntarily enrolled as inactive members of the State Bar pursuant to Business and Professions Code section 6007(c)(1).

On March 13, 2003, Respondents were served personally with the Application and supporting documents including a request that the Court take judicial notice of voluminous documents.

On March 21, 2003, Respondents filed a verified response to the State Bar's application for involuntary inactive enrollment and supporting documents and requested a hearing pursuant to rule 462 of the Rules of Procedure. They also filed a request for judicial notice and objections to the State Bar's request for judicial notice and declarations.

The parties' objections to each other's requests for judicial notice and exhibits were addressed at a hearing on April 15, 2003.

The parties chose not to present or cross-examine live witnesses.

This matter was heard on April 17 and 18, 2003. The matter was taken under submission on May 7, 2003, after the parties submitted briefs.

III. JURISDICTION

Respondents were admitted to the practice of law in California on December 5, 2000 (Trevor), November 28, 2001 (Hendrickson) and June 3, 2002 (Han) and, at all times mentioned herein, have been members of the State Bar of California, unless otherwise specified as to Respondent Han.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Business and Professions Code section 6007(c) authorizes this Court to order an attorney's involuntary inactive enrollment upon a finding that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or to the public. In order to find that an attorney's conduct poses a threat of harm, the following three enumerated factors must be shown: (1) the attorney has caused or is causing substantial harm to his clients or the public; (2) the injury to the attorney's clients or the public in denying the application will be greater than any injury that would be suffered by the attorney if the application is granted or, alternatively, there is a reasonable likelihood that the harm will continue; and (3) there is a reasonable probability that the State Bar will prevail on the merits of the underlying disciplinary matter. (*Conway* v. *State Bar* (1989) 47 Cal.3d 1107, 1126; *In the Matter of Mesce* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 658, 661.)

In its Application, the State Bar avers that Respondents have engaged in a pattern of behavior which has caused or is causing substantial harm to their clients and the public and that there is a reasonable likelihood that the harm will reoccur or continue. (Application, page 10, lines 3 - 5.) "[W]here the evidence establishes a pattern of behavior, including acts likely to cause substantial harm, the burden of proof shall shift to the attorney to show that there is no reasonable likelihood that the harm will reoccur or continue." (Application, page 8:16 - 17; Section 6007(c)(2)(B).)

The Application is based on matters not yet the subject of disciplinary charges pending in the State Bar Court. (Rules 461(a)(3) and 482(b).) Respondent's inactive enrollment is sought on the

basis of the declarations under penalty of perjury and exhibits submitted by the State Bar.

1. INTRODUCTION

a. Summary of Findings of Fact

Respondents became acquainted with each other either during law school or shortly after graduating from law school. After exploring various business opportunities, they embarked on litigation pursuant to the provisions of Business and Professions Code[1] section 17200, the so-called Unfair Competition Law, or UCL, which generally prohibits "any unlawful, unfair, or fraudulent business act or practice." It has been used by various private practitioners and public prosecutors to curtail sharp business practices in a wide range of businesses including nursing homes[2], rental car companies[3], and grape growers[4].

The relaxed standing requirements of the statute allow, under certain circumstances, a plaintiff to sue a defendant without allegations or proof of any damage suffered by that plaintiff. The UCL allows certain injunctive relief, but not damages to the plaintiff, in instances when it is deemed to be in the public interest to curtail the conduct although the plaintiff was not actually damaged by it.

Among the findings this Court is called upon to make is whether there is a reasonable probability that the State Bar will prevail in a disciplinary action based on the misconduct alleged in the Application herein. This misconduct includes the unauthorized practice of law; making misrepresentations to defendants about the effect of settlements and to the public via the media regarding alleged support for their litigation by the Orange County District Attorney and by testimony before the California Legislature; forming a sham corporation which was the alter ego of

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[1]All future references to "section" are to the Business and Professions Code unless otherwise stated.

[2]*People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509.

[3]*People v. Dollar Rent-a-Car Systems, Inc.* (1989) 211 Cal. App.3d 119.

[4]*Allied Grape Growers v. Bronco Wine Co.* (1988) 203 Cal.App.3d 432.

Respondents' law firm to act as plaintiff in litigation carried out with a corrupt purpose; and charging excessive contingency fees, with 80 - 90% of the recovery going to the law firm. Respondents engaged in questionable litigation tactics such as filing lawsuits with insufficient probable cause; filing some lawsuits using a single named defendant and 30,000 "Doe" defendants, naming the Doe defendants, and then trying to quickly settle the claims before they were required to disclose the defendants' identities; using paralegals to engage in high pressure settlement tactics; and dismissing defendants who demurred in the lawsuits, sometimes naming them again in later cases. Moreover, when cases were settled, it is claimed that Respondents failed to properly segregate funds and maintain records of which amounts, if any were to go to the client.

The factual support supplied by the State Bar was voluminous and compelling, occupying over 53 volumes of declarations, exhibits and judicially noticed documents, much of which was received without objection. This evidence indicates a pattern of misconduct which, it is alleged, Respondents intend to continue.

As set forth in more detail below, the Court finds that there is a reasonable probability that the State Bar will prevail in a disciplinary action based on the misconduct summarized above.

b. <u>Section 17200, *et seq* – A Brief Background</u>

California law has long sought to prohibit business practices that abuse consumers. However, inadequate funding of public prosecutorial agencies has led to difficulties in enforcing these laws.[5] As such, the private bar has often taken on the role of prosecutor of the public interest, and courts often encourage such a result.[6]

Originally, the UCL was enacted to codify the common law prohibition on name

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[5]McCall, et al., *Greater Representation for California Consumers - Fluid Recovery, Consumer Trust Funds and Representative Actions* (March 1995) 46 Hastings L.J. 797, 798 (hereafter "McCall").

[6]*Id.* at pp. 798 - 799.

infringement.[7] In 1933, it was amended to include unfair or fraudulent business practices and false advertising. In 1963, the Legislature amended the statute again to add the concept of "unlawful" business practices to the list of prohibited conduct. Because of this amendment, any business practice that violated an independent statutory duty was an instance of unfair competition.[8] In 1972, the California Supreme Court recognized the expansive scope of the UCL in a private consumer protection action, *Barquis v. Merchants Collection Agency* (1972) 7 Cal.3d 94. There, the Court held that by prohibiting unlawful, unfair or fraudulent practices under section 17200, *et seq.*, the Legislature intended to permit the courts to enjoin all types of "on-going wrongful business conduct in whatever context such activity might occur."[9] Finally, in 1992, the Legislature expanded the scope of the law to include unfair business acts as well as practices.[10]

One of the unique aspects of the UCL is its standing requirement. A UCL claim may, of course, be brought by one who has been damaged by proscribed conduct. However, section 17204 states that actions for relief under the UCL may by prosecuted by "any person acting for the interests of itself, its members, or the general public." (Emphasis added.) Therefore, there is no requirement that a plaintiff be personally harmed. (*People ex rel. Van de Kamp v. Cappuccio, Inc.*, (1988) 204 Cal. App. 3d 750.)

The UCL allows limited remedies to private plaintiffs. As noted above, injunctive relief is allowed, under section 17203. In addition, that section also allows restitution, but, unlike in the case of injunctive relief, an order of restitution requires that there be proof that money or property was taken from a given plaintiff. Consequently, for a plaintiff that has suffered no damage or has lost

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[7]See, Taylor, *Why the Increasing Role of Public Policy in California's Unfair Competition Law is a Slippery Step in the Wrong Direction* (July 2001) 52 Hastings L.J. 1131 (hereafter "Taylor"); McCall, et al., *supra*, at p. 1133.

[8]*Cell-Tech Communications, Inc. v. L.A. Cellular Tel. Co.* (1999) 20 Cal.4th 163, 194 (Kennard, J., concurring and dissenting) (hereafter *Cell-Tech)*; Taylor, *supra* at pp. 1133 - 1134.

[9]*Barquis*, *supra*, 7 Cal.3d at p. 111.

[10]*Cell-Tech*, *supra*, 20 Cal. 4th at p. 194.

no money or property, an injunction is effectively the only remedy available under the UCL.

Attorneys' fees are not recoverable under the UCL. However, private plaintiffs may, at the successful conclusion of the UCL lawsuit, file a motion seeking attorneys' fees under Code of Civil Procedure section 1021.5. Such a motion requires, among other things, a showing that a significant benefit has been conferred upon the general public or a large class of persons.

c. Format of Decision

Because of the extensive recitation of facts in this Decision and Order, the findings required by section 6007(c)(2)(C) will be made as the facts of each charge are discussed. The remaining findings required by section 6007(c)(2) will be addressed in the Discussion section, below.

d. The Origins of The Trevor Law Group and the UCL Litigation

(1) The many business relationships of the principals of The Trevor Law Group

Many of the principal actors in what became The Trevor Law Group and related businesses met in 1996 at Western State University School of Law in Fullerton, California ("Western State"). Specifically, Respondents Han and Hendrickson met each other, and also met fellow law students Ron Jamal Kort ("Kort"), Reuben Nathan ("Nathan"), Elham Azimy ("Azimy"), Daniel Heck, Ross Cornell and Harpreet Brar.

In January 1998, Han and Hendrickson formed a business called American Mediation Association. On January 16, 1998, Respondent Hendrickson filed a fictitious business name statement in Orange County, California, for American Mediation Association, which listed himself and Respondent Han as registrants.

In August 2001, Respondents Han and Trevor formed a California limited liability company called NBM, LLC. On August 17, 2001, they filed articles of organization for NBM, LLC, which listed Respondent Trevor as agent for service of process and listed Respondent Han as "attorney-in-fact" with the law firm of Trevor & Associates. At this time, Respondent Han was still not a member of the State Bar of California.

Respondents Han and Hendrickson also commenced other business ventures together. In August 1999, Respondents Han and Hendrickson formed a limited liability company called Audioguard, LLC ("Audioguard"). Respondent Hendrickson and Kort were listed as agents of service of process for Audioguard and both Respondents Han and Hendrickson were listed as member managers of Audioguard. Kort is currently the chief financial officer of Audioguard. Also, Respondent Han was and may still be a member of Audioguard. Audioguard was created to market or sell an audio equipment device ("Audioguard device").

In March or April 2001, Respondent Han met with former law school classmate Daniel Heck ("Heck") to discuss a business proposal involving Audioguard. Heck had been a member of Audioguard from August 1999 through April 2000. At the meeting with Heck, Respondent Han proposed filing lawsuits, pursuant to section 17200, *et seq.*, against music concert promoters, bands and concert venues for violating local sound ordinances during concerts.

Respondent Han suggested to Heck that they send individuals to local music concerts to register and record the sound levels throughout the concert using a decibel meter. Respondent Han suggested that these individuals have their hearing checked both before and after the concert in order to prove whether or not they sustained hearing damage. Respondent Han told Heck that they could file negligence causes of action premised on any hearing damage. Respondent Han further told Heck that these lawsuits could potentially create a market for the Audioguard device.

In July 2001, Kort met with business consultant Bill Dahl ("Dahl") and Respondent Han regarding raising money for Audioguard to market and sell the Audioguard device. After the meeting Dahl had the understanding that Kort and Respondent Han held the patents to the technology for the Audioguard device. When Dahl met Respondent Han that same month, Han misrepresented himself as an attorney with a law office in Norwalk, California. Respondent Han also sent Dahl his resume which failed to properly identify himself as not being licensed in California, and also falsely stated that he was an attorney with the Law Offices of Nathan & Azimy in Norwalk, California. Based on Kort's and Respondent Han's representations, Dahl agreed to

provide business consulting services to Audioguard and to have his lawyers at Rutan & Tucker provide legal advice to Audioguard.

Sometime after Dahl had entered into a contract for services with Audioguard, Respondent Han admitted that he was not licensed to practice in California. Respondent Han told Dahl that he worked with two attorneys in Norwalk, California, but that the two attorneys did not know what they were doing. Respondent Han boasted to Dahl that he ran the Norwalk law office and that he represented California clients both in and out of court.

On November 28, 2001, after Dahl incurred more than $50,000 in fees and almost $6,000 in out-of-pocket expenses, Respondent Han further admitted that Audioguard did not hold current patents for the Audioguard device. In response, Dahl told Respondent Han that they should cease and desist all business transactions until they resolved the issue regarding the patents. Respondent Han suggested that instead, they should change the language of the Private Placement Memorandum and still try and raise the funds. Dahl informed Respondent Han that no investor would fund Audioguard if it did not hold valid patents for the technology. In January 2002, Dahl resigned from working with Audioguard.

In October 2002, The Trevor Law Group incorporated Masari Inc. ("Masari") for Kort. Masari is a mortgage lending company of which Kort is the sole officer, director and shareholder. Kort maintains that Masari is his current source of income, but also avers that he has no current income.

As is discussed in more detail later, Respondents formed Consumer Enforcement Watch Corporation ("CEW") to act as the plaintiff in the UCL litigation that was to follow.

(2) Han's Unauthorized Practice of Law

As noted above, Respondent Han held himself out to be a licensed California attorney in a business relationship with Bill Dahl. At that time, Mr. Dahl was represented by other counsel.

In addition, however, Respondent Han began to actually practice law in California without a license. Respondent Han falsely stated to Azimy and Nathan that he was licensed to practice law

in California and Washington.[11] Thereafter, in October 2000, Respondent Han, Azimy and Nathan agreed to form a law partnership. On November 14, 2000, Azimy filed a fictitious business statement in Orange County, California, for the Law Offices of Azimy, Han & Nathan. This fictitious business statement listed the three partners as "owners" and set forth the nature of the business as "attorneys." The letterhead used by this firm at that time failed to state that Han was not licensed to practice in California. His partners were unaware of that fact and, until January 23, 2001, Respondent Han told his partners that he was a licensed California attorney.

In early 2001, however, a few months after the formation of Azimy, Han & Nathan, Han's secret began to unravel. In January 2001, the Law Offices of Azimy, Han & Nathan had agreed to provide legal assistance to an individual named James Witt ("Witt"). On January 21, 2001, Respondent Han provided legal advice to Witt regarding trial preparation in the matter entitled *James Witt v. Terry Hamilton*, Orange County Superior Court case no. 788510. On that day, Respondent Han filed a declaration in support of Witt's *ex parte* application for a continuance. Upon receiving the *ex parte* application, opposing counsel William Loomis ("Loomis") contacted the State Bar. He discovered that Respondent Han was not licensed to practice in the State of California and filed an opposition to the application which noted that fact. Loomis sent Nathan and Azimy a copy of the opposition papers.

Upon reviewing Loomis' opposition, Nathan confronted Respondent Han about his California State Bar membership. Respondent Han denied ever having represented himself as a licensed California attorney and pleaded with Nathan to keep him on as a paralegal. On January 24, 2001, Nathan and Azimy terminated Respondent Han's employment as an attorney and abandoned the use of the name the Law Offices of Azimy, Han & Nathan. However, the firm continued to employ Han as a paralegal.[12]

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[11]At that time, Han was only licensed to practice in the State of Washington, not in California.

[12]He remained in that status until March 2002.

Unknown to Azimy and Nathan, during the period of October 2000 through May 2001, Respondent Han worked for attorney Cyrus Nownejad ("Nownejad") by providing legal assistance in the case of *Robert Sherman v. Geneva Dental North America, Inc.* et al, Los Angeles County Superior Court case no. BC272494. During that time, Respondent Han received legal fees from Nownejad.

On August 13, 2001, Azimy & Nathan filed a UCL lawsuit in Los Angeles Superior Court, case no. BC256056, entitled *Michael Rowlands doing business as Public Watchdog v. Jasmin Club et al.* ("the Public Watchdog case"). Kort formed and managed Public Watchdog.

After filing the Public Watchdog case, Respondent Han suggested to Nathan that they file UCL lawsuits against automotive businesses that had committed regulatory violations. Respondent Han and Kort also suggested to Nathan that they file UCL lawsuits on behalf of Audioguard. They suggested sending people to concerts with equipment to measure the sound levels and filing UCL lawsuits where the sound levels exceeded regulatory limits. Nathan rejected both ideas.

While employed with Azimy & Nathan, Respondent Han had also begun working on the side with Respondents Trevor and Hendrickson. Neither Azimy nor Nathan was aware of this fact. In March 2002, while Respondent Han was still employed as a paralegal for Azimy & Nathan, Nathan saw a legal document on the laptop the firm provided Han which listed the attorney of record as Respondent Hendrickson. Nathan reviewed the document and recognized it to be a discovery form used by Azimy & Nathan. Nathan confronted Respondent Han and asked Respondent Han if he was using documents or property belonging to Azimy & Nathan in order to perform outside employment. Respondent Han falsely told Nathan that he was not working for anyone other than Azimy & Nathan. That day, Nathan terminated Respondent Han's employment, took control of the laptop and, thereafter, changed the locks of the office to prevent Respondent Han's access.

In December 2002, after discussions with State Bar investigator John Noonen, Nathan searched the aforementioned laptop and discovered a computer-generated document setting forth a "game plan" to file UCL cases against 100 automobile repair businesses in Orange County, which

would "make for approximately 200 - 250 defendants."

The "game plan" included several ethical questions "to be asked":

"(1) Does a client that has a contingent fee agreement on the recovery of attorneys [sic] subject the attorney to an ethical violation as participating in illegal fee splitting?

(2) Does charging a lay consultant's fee, paid by an attorney, constitute fee splitting if such change happens unilaterally after the attorney recovers a certain pre-set amount of attorneys' fees on a specific case?

(3) May an 'of counsel' attorney that is admitted to practice in a foreign jurisdiction actively negotiate a settlement in a case? May a 'pro hac vice' attorney do so?"

The "game plan" also set forth specific tasks to be completed prior to filing a UCL complaint, including filing articles of incorporation for the "plaintiff" and examining the "possible benefits of 'buying out' a currently existing corporation, for purposes of the appearance of longevity, and changing the name rather than incorporating." The list further called for creating an "identity for both the Corporation and the Law Firm" and setting up a "schedule for what Law Firm should pay for and what Corp should pay for."

In early 2002, Respondents Han, Hendrickson and Trevor formed The Trevor Law Group. While a partner of The Trevor Law Group and as part of the incorporation of CEW, Respondent Han signed an Opinion of Counsel certifying that on April 30, 2002, he was a member of the State Bar of California. This was untrue. That form stated directly under Han's signature "Name of Member of the State Bar of California." Under that statement, the form went on to state as follows: "(This opinion of counsel must be signed by an active member of the State Bar for California)". In signing this document, Han opined that the securities exemption from qualification with the Commissioner of Corporations provided under Corporations Code 25102(h) was available for the offer and sale of the shares of CEW. (See Exhibit 2, Bates Stamp 744).

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability

that the State Bar will prevail as to the following charges:

The State Bar alleges that Respondent Han unlawfully practiced law and held himself out as entitled to practice law while not an member of the State Bar of California, in violation of sections 6068(a), 6125 and 6126, and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106 by falsely stating to Nathan and Azimy that he was licensed to practice in California; by entering into a law office partnership with Azimy and Nathan; by performing legal services with Nownejad; by providing legal advice and filing a declaration on behalf of Witt; by representing himself as a California attorney to Dahl; by signing documents which were required to be signed only by a licensed California attorney and by certifying his status as a California attorney.

e. Commencing The Trevor Law Group's UCL Litigation

As noted above, Respondents Trevor, Hendrickson, and particularly Han, had an idea for litigation on a massive scale, utilizing the broad standing provisions of section 17200. However, in order to file these actions, they needed a client to serve as a plaintiff.

(1) The Creation of Consumer Enforcement Watch Corporation

(a) The Alter Ego of The Trevor Law Group

Once again, Respondents turned to their law school friend, Mr. Kort. What was borne out of that relationship was a for-profit corporation called Consumer Enforcement Watch Corporation. CEW was created in March 2002. It had no history in the consumer protection field. It was created specifically for The Trevor Law Group's purposes. As set forth in more detail below, it was a shell corporation which was controlled entirely by, and was the alter ego of, The Trevor Law Group.

In early 2002, Respondents listed Respondent Hendrickson's wife, Mirit Strausman ("Strausman") as agent for service of process of CEW. She was appointed by Respondents without explaining to her what her duties would be.

Respondents handled all the legal aspects of creation and incorporation of CEW,

including filing documents with the Secretary of State and the Department of Corporations. On April 1, 2002, Respondents prepared articles of incorporation for CEW, listing Kort as promoter and incorporator and Strausman as agent for service of process. The articles of incorporation listed CEW's mailing address as the same as Respondents's mailing address.

Respondents listed in the articles of incorporation a "drop box" located at 1601 West Seventeenth Street, Ste. F-2414, Santa Ana, California, 92706, as Strausman's service address. The drop box belonged to Kort and was private and locked. Strausman had no key and in fact, had no knowledge of the drop box while she acted as CEW's agent for service of process. When Kort saw any mail addressed to Strausman in the drop box, he notified one of the Respondents, not Strausman. She never knew of any mail addressed to her at the drop box. In fact, from April 2002 through January 2003, Strausman accepted service of only one document for CEW, in January 2003.[13] The process server located Strausman at her parents' residence and she accepted service of the document at that location. Upon receiving service, Strausman did not give the document to Kort or CEW, but rather to her husband, Respondent Hendrickson.

On April 11, 2002, Respondents attempted to file the articles of incorporation for CEW but the articles were rejected. On that same day, before CEW was incorporated, Respondents filed their first UCL lawsuit in Orange County on behalf of CEW as a corporation. CEW was finally incorporated on April 30, 2002.

On April 30, 2002, Respondents prepared a Notice of Issuance of Shares ("Notice") to be filed with the Department of Corporations on behalf of CEW. The notice stated Respondent Han was a member of the California State Bar and listed the drop box address as CEW's principal place of business. Kort signed the notice as "R. Jamal" and Han signed it as attorney for The Trevor Law Group and as a member of the State Bar of California although he was not yet admitted to practice in California. As noted above, as part of that filing, he signed an attorney

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[13]From April 2002 through January 2003, The Trevor Law Group filedlawsuits against approximately 3,000 UCL defendants on behalf of CEW.

opinion that the filing complied with the securities exemption provided by California Corporations Code section 25102(h) (even though he was not member of the State Bar of California at that time).

In April or May 2002, Kort asked Summer Elizabeth Engholm ("Engholm") to be the corporate secretary of CEW. Kort met Engholm at a club with Respondent Trevor. At all relevant times, Engholm was Respondent Trevor's girlfriend and also used the name "Summer Elizabeth." Engholm did not understand that she was a corporate officer of CEW or that CEW was a corporation.

Engholm's duties as corporate secretary included signing legal documents entitled "Stipulation for Entry of Judgment and Permanent Injunctions." Kort and Respondents prepared the legal documents for Engholm to sign. Respondent Trevor directed her to sign the documents and, although she did so, she did not understand the language or contents of the documents.

From the formation of CEW through January 2003, Kort used his cellular telephone to receive calls on behalf of CEW. This telephone number was never available to the public. As noted below (in the discussion of misrepresentations made to the media), it is questionable whether CEW even had an office and telephone, at least in the initial stages of the UCL litigation.

At the time of his deposition, Kort did not know how much money The Trevor Law Group collected on behalf of CEW. Neither CEW nor Kort maintained copies of settlements or other documents regarding the UCL litigation nor did they maintain a ledger or journal to track settlement funds or costs. No one at CEW knew, at the time of their depositions, how many cases had settled. In fact, since the formation of CEW, The Trevor Law Group settled approximately 70 - 80 UCL lawsuits and has maintained control over all settlement funds relating to the UCL lawsuits.

The Trevor Law Group used CEW as a nominal plaintiff in the UCL litigation, when The Trevor Law Group was the true beneficiary of the litigation. CEW was not a separate and

distinct entity but rather Respondents's alter ego, created with the intent to give the public a false impression that CEW was a legitimate corporation pursuing a public benefit. Kort, Strausman and Engholm were all agents of The Trevor Law Group, and all were enlisted by The Trevor Law Group in order to maintain complete control of the UCL litigation.[14] Further, the effect of these acts seems to be to defraud the public, all the while generating income for The Trevor Law Group.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By executing the notice on April 30, 2002, Respondent Han unlawfully practiced law prior to becoming a member of the State Bar of California in violation of Business and Professions Code sections 6068(a), 6125 and 6126, and that by allowing him to do so, Respondents Trevor and Hendrickson aided and abetted the unauthorized practice of law in violation of RPC 1-300(A);

By the foregoing conduct; by conspiring to create and creating CEW, a shell corporation which was the alter ego of The Trevor Law Group to defraud the public and generate income; and by enlisting Kort, Strausman and Engholm to be agents, officers and/or employees of CEW in order to maintain complete control of CEW and to advance their scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(b) Attempts to Legitimize CEW

In early January 2003, shortly before the hearing of the Assembly and Senate Judiciary Committees (See further discussion regarding this hearing, below), Kort and Respondent Han

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[14]As is discussed later in this Decision and Order, The Trevor Law Group also litigated UCL lawsuits on behalf of Helping Hands for the Blind, Inc., an entity completely separate from The Trevor Law Group. However, when it became clear that they could not control this company, they dismissed and refiled all of that client's cases under the name of CEW.

telephoned Hagop Griggosian ("Griggosian") about becoming Vice President of CEW. Respondent Han told Griggosian he was going to Sacramento and needed Griggosian to help legitimize CEW. Griggosian told Respondent Han that he did not agree to do so.

On January 13, 2003, one day before Respondents Han and Hendrickson appeared before the Senate and Assembly Judiciary Committees, Respondents prepared and Kort signed a Statement of Domestic Stock Corporation listing Griggosian as an officer for CEW.

On January 14, 2003, Respondents Han and Hendrickson appeared before the Senate and Assembly Judiciary Committees and falsely told the committee members that CEW's income from the UCL litigation was used, in part, to pay the salaries of employees.

After this hearing, Griggosian learned that Respondents and Kort had listed him as an officer of CEW. On January 20, 2003, Griggosian met with Kort and demanded that he be removed as an officer of CEW. Kort told Griggosian that he and Respondents had needed someone right away. Kort also told Griggosian that he should learn more about CEW before being removed as an officer. Griggosian refused and again demanded that Kort remove him as an officer. Griggosian telephoned Respondent Han and left messages demanding that he be removed as an officer of CEW. Griggosian then sent Kort a letter confirming his demand that Kort remove him as vice president of CEW. Kort refused acceptance of Griggosian's letter.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By listing Griggosian as an officer of CEW without his permission or knowledge in order to give the appearance of legitimacy and to advance their scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) <u>The Unconscionable Client Fee Agreements</u>

As alleged in the Application, The Trevor Law Group entered into fee agreements with two clients: one, its captive corporation, CEW and the other, Helping Hands for the Blind.

(a) The Trevor Law Group's Fee Agreement with CEW

As discussed earlier in this Decision and Order, CEW was a sham client. It was created solely as the alter ego of The Trevor Law Group and this Court has so found. However, even assuming that such a finding were not made in this Decision and Order and that CEW was a client separate from The Trevor Law Group, then the fee agreements entered into between The Trevor Law Group and CEW were unconscionable, as is set forth more fully below.

From May 29, 2002, through December 2002, Respondents entered into five contingent fee agreements with CEW relating to UCL lawsuits:

1. On May 29, 2002, Respondents entered into two contingent fee agreements with CEW. In the 7 Day Tire case, case no. 02CC005533 ("7 Day Tire case"), the fee agreement provided that fees would be paid out of any recoveries made in connection with UCL litigation, and/or any court awarded attorneys' fees, at a rate of 70% to Respondents and 30% to CEW.

2. The second fee agreement related to UCL litigation regarding advertising violations in the automobile sales industry that provided for a similar fee arrangement at a rate of 90% to Respondents and 10% to CEW.

3. On May 30, 2002, Respondents entered into a fee agreement with CEW relating to UCL litigation against Brake Masters, in case no. 02AS04214. The Brake Masters fee agreement provided for a similar fee arrangement at a rate of 70% to Respondents and 30% to CEW.

4. On August 1, 2002, Respondents entered into a fee agreement with CEW relating to UCL litigation against the real estate and mortgage advertising industry that provided for a similar fee arrangement at a rate of 90% to Respondents and 10% to CEW.

5. On December 11, 2002, Respondents entered into a fee agreement with CEW relating to UCL litigation against the restaurant industry that provided for a similar fee arrangement at a rate of 90% to Respondents and 10% to CEW.

From April 2002 through March 2003, Respondents collected fees obtained through UCL litigation on behalf of CEW and have collected all of the settlement funds resulting from it but

have not distributed any of the settlement proceeds to CEW, except for a $1,200 advance to Kort in December 2002 through January 2003.

(b) The Trevor Law Group's Fee Agreement with Helping Hands for the Blind

In October 2002, Strausman's sister, Shirley, set up a meeting between Respondents and Robert Acosta ("Acosta"), the president of Helping Hands for the Blind ("HHB"). Shirley was Acosta's secretary. Acosta himself is blind.

On November 1, 2002, Acosta and Shirley met with Respondents. Respondent Hendrickson told Acosta that The Trevor Law Group had discovered a new way of getting around the Americans with Disabilities Act by filing another type of lawsuit. Respondents told Acosta that they could file lawsuits against banks to provide Braille access to ATM machines and that they could force restaurants to provide Braille menus and otherwise improve conditions for the blind. Respondents told Acosta that they could obtain their attorneys fees from the court if they were successful in litigation. On November 12, 2002, Respondents faxed Acosta a fee agreement relating to litigation against banks and providing a division of all settlements at a rate of 90% to Respondents and 10% to HHB. Acosta disagreed with the division of fees and faxed back the fee agreement with suggested changes.

On November 23, 2002, Respondents faxed a second fee agreement to Acosta relating to litigation against restaurants, which Acosta did not review until November 30, 2002, when he returned from vacation. This second fee agreement provided a division of all settlements at a rate of 82.5% to Respondents and 17.5% to HHB. Acosta signed the fee agreement and faxed it back to The Trevor Law Group.

HHB retained other counsel on December 5, 2002.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By entering into fee agreements for, charging and collecting fees from CEW at a rate of 70 - 90% of recovery, Respondents entered into fee agreements which charged and, thereafter, Respondents collected unconscionable fees in violation of rule 4-200;[15]

By knowingly misrepresenting to Acosta the basis of representation and litigation on behalf of HHB in furtherance of their scheme to defraud, Respondents committed acts involving moral turpitude, corruption or dishonesty in violation of section 6106. As noted above, it is this Court's finding that CEW is not a true client but, if it were, the fee arrangement with The Trevor Law Group would be unconscionable.

(3) <u>The Search for Defendants</u>

Having created their primary "client",[16] and having entered into a fee agreement with that client, Respondents then set out to find defendants to sue. Employing several paralegals and file clerks, Respondents began assembling a list of names from various publicly available Internet websites. The Trevor Law Group derived the UCL allegations against automotive repair shops from the Bureau of Automotive Repair ("Bureau") website on which were posted notices of violations ("NOVs") relating to automotive repair businesses. The website contained a disclaimer stating that the Bureau made no guarantee as to the "accuracy, completeness, timeliness, currency, or correct sequencing of the information." The Bureau has never attached a penalty to the issuance NOVs. The Bureau issued NOVs when it had determined that no formal disciplinary action was warranted.

Respondents did not investigate or monitor the defendant businesses. They only used the limited information posted on the Bureau website as the basis for UCL lawsuits. They also knowingly sued businesses that had resolved the allegations with the Bureau or with the

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[15]Although mentioned in the Application, there appears to be no formal charge that Respondents entered into an unconscionable fee agreement with HHB.

[16]While it is true that Respondents had Helping Hands for the Blind as a legitimate client, their representation of this entity only lasted briefly before Acosta terminated them. When they were terminated, the cases were dismissed and refiled under the name of CEW.

customers.

In May 2002, Respondents hired Respondent Hendrickson's close friend, Farber, as a file clerk and, in September 2002, they made him their office manager. During his employment as a file clerk, Farber wrote to the Bureau seeking additional information about certain auto shops. In response, the Bureau provided Farber with complaint history forms for approximately 16 different auto shops.

After approximately one month, the Bureau told Farber that he was submitting too many requests for information on behalf of Respondents. A Bureau representative told Farber that he could only file one written request per week. To circumvent the Bureau's limitation on such requests, Respondents prepared numerous written requests to the Bureau, using a different name and address on each request. Farber prepared the written requests and directed other employees of Respondents to sign the requests, using their personal or residence address. Farber instructed the employees to bring any response from the Bureau back to Respondents.

On December 5, 2002, the Bureau suspended the posting of NOVs on its website due partly to Respondents's misuse of the information to secure UCL settlements. On January 15, 2003, the Bureau suspended publication of NOVs altogether.

With respect to the claims against restaurant defendants, The Trevor Law Group derived these UCL allegations from the official website of the Los Angeles County Department of Health Services ("LADHS"), which contains information about date of inspection, current score of the restaurant, a list of violation categories and the history of the last three inspection scores. The list of violation categories gives a very brief and general description of the type of violation, not a detailed or specific description of the violation. This website also posts a disclaimer stating that LADHS is not responsible for any errors contained therein.

In December 2002, LADHS received numerous inquiries and telephone calls concerning Respondents's UCL litigation against restaurants. In response, on January 1, 2003, the Director of the Environmental Health Division of LADHS, Arturo Aguirre, sent a letter to all Los Angeles

County retail food facility operators stating that the Department was not involved in or in any way was associated with Respondents's UCL lawsuits.

For both categories of defendants referred to above (i.e., auto repair shops and restaurants), Respondents failed to conduct any further analysis of the efficacy of any lawsuit against these defendants. Instead, often the decisions were made by "paralegals" None of those accumulating the information had any prior investigative experience as police officers or had any other law enforcement background.

The following lawsuits were filed by The Trevor Law Group based on the information acquired from the two websites referred to above:

Filed:	Case Name:	Case No.:	Defendants
4-11-02	CEW v. 7 Day Tires et al	02CC005533	76
5-31-02	CEW v. Rice Honda Superstore	BC274878	10
5-31-02	CEW v. McMahons RV et al	BC274879	8
6-7-02	CEW v. Firestone Tire & Service et al	BC275338	5
7-17-02	CEW v. Brake Masters et al	02AS04214	1
8-28-02	CEW v. Ocean Automotive	02CC00250	1
8-28-02	CEW v. Integrity Automotive	02CC00251	1
8-28-02	CEW v. American Tire & Auto	02CC00252	1
8-28-02	CEW v. Superior Automotive	02CC00253	1
8-28-02	CEW v. Tim's Auto Repair	02CC00254	1
8-28-02	CEW v. Silva's Auto Body	02CC00255	1
8-28-02	CEW v. Jeeps R Us	02CC00256	1
9-18-02	CEW v. Best Quick Smog et al	BC281693	200
9-18-02	CEW v. Didea Auto Repair et al	BC281694	200
9-18-02	CEW v. VIP Car Wash et al	BC281695	200
9-18-02	CEW v. Guzman Carburetor	BC281696	200
9-18-02	CEW v. A1 Smog Muffler et al	BC281705	196

9-18-02	CEW v. #1 Auto Body Repair et al	02CC00278	109
9-19-02	CEW v. AC Auto Service et al	BC281768	203
9-20-02	CEW v. Oklahoma Tire Service et al	BC281865	207
9-24-02	CEW v. Progressive Lenders et al	BC282020	10
9-27-02	CEW v. E Auto Glass Inc. et al	BC282336	200
9-30-02	CEW v. 3 Stage Auto Body & Paint	02CC00293	199
11-26-02	HHB v. ONJ Coffee	BC286006	378
11-26-02	HHB v. Bun Boy et al	BC286007	252
11-26-02	HHB v. Pizza et al	BC286008	7
11-26-02	HHB v. Blue Banana et al	BC286009	388
12-11-02	CEW v. Blue Banana et al	BC286891	1013

In most of the cases, Respondents listed 30,000 "Doe" defendants.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By failing to conduct reasonable inquiries or investigations prior to filing the UCL lawsuits against automobile repair shops and restaurants and relying on limited information posted on the Bureau and LADHS websites, Respondents failed to counsel or maintain actions only as appeared to them legal or just in violation of section 6068(c) and committed multiple acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By filing the UCL lawsuits against automobile repair shops and restaurants from the corrupt motive of generating income while defrauding the public, Respondents committed multiple acts involving moral turpitude, dishonesty or corruption in violation of section 6106 and commenced actions from a corrupt motive of passion or interest in violation of section 6068(g).

(4) <u>The Misuse of "Doe" Defendants</u>

The use of fictitious defendants, or "Doe" defendants in State practice allows a plaintiff to preserve its right to name later identified individuals or entities when their actual identity or

liability is ascertained. Often, the time constraints associated with filing a complaint prevent the complete research necessary to identify all the proper parties. Also, the naming of "Doe" defendants can preserve the statute of limitations against defendants that have not been yet identified as proper defendants in the case. Code of Civil Procedure ("CCP"), section 475 states, in pertinent part, as follows:

> "When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, or the affidavit if the action is commenced by affidavit, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly...."

Out of a concern that all the parties be brought before the court, and to foster judicial economy, courts will routinely grant requests to add a "Doe" defendant. In fact, in Los Angeles and Orange Counties, leave to grant an amendment to add a "Doe" defendant is routinely granted and may be accomplished without the need for notice or a hearing. *California Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2002), Paragraphs 6:112 through 6:614, pages 6-123 to 6-124 (Weil and Brown) (hereafter "*Rutter*"). Further, the courts assess no additional charge for suing multiple named defendants (as opposed to a single defendant) in an original complaint.

After a "Doe" defendant has been added by amendment, that defendant has to be served with a copy of a document that gives notice of the name under which the defendant is being served. There appears to be no statutory requirement that the other defendants in the case be initially notified of the addition of a new defendant or that defendant's identity.

However, designating a defendant by a fictitious name is only proper if a plaintiff was genuinely ignorant, when the complaint was filed, of the defendant's true name or the facts rendering the defendant liable. *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 177; *Taito v. Owens Corning* (1992) 7 Cal.App.4th 798, 802; *Optical Surplus, Inc. v. Superior Court* (1991) 228 Cal.App. 3d 776; *Rutter*, paragraphs 6:79 and 6:80, page 6 - 20. Further, the use of fictitious

defendants cannot be used solely as a settlement tactic to provide one side with advantages in the litigation.

It appears that Respondents have abused CCP section 474 on several levels. In the first case filed by Respondents, the 7-Day Tire case filed on April 11, 2002, Respondents named only one defendant and 30,000 "Doe" defendants. In the complaint, Respondents made the obligatory allegation that the names or identities of the "Doe" defendants were unknown to them. However, on the same day as the filing of the original complaint, April 11, Respondents filed amendments for 98 fictitious defendants. It is clear that the Respondents knew the identity of the 98 new defendants at the date of filing and therefore violated the requirements of CCP section 474.

The "game plan" document referred to earlier (see Exhibit 4, Declaration of Reuben D. Nathan at Bates stamp no. 22 - 23) shows that the misuse of "Doe" defendants was part of Respondents' original plan. As was stated on the "schedule" set forth in the "game plan", on "Day #1", both the Complaint and the "Doe" amendments were scheduled to be filed. In other words, at the time of the preparation of the "game plan" (which even preceded the formation of The Trevor Law Group), Respondents knew they intended to file "Doe" defendants simultaneously with the original complaint.[17]

It also appears that the "Doe" procedures were misused to discourage defendants from contacting other defendants. It appears from the records that Respondents wanted to avoid having defendants in their cases know of the existence and/or identity of other defendants.[18] By using the "Doe" procedures described above, Respondents were able to keep these identities

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[17]Alternatively, for the sake of argument, if Respondents truly did not know the identity of those 98 new defendants, they would have had the burden of convincing this Court that they conducted a reasonable analysis of probable cause with respect to each of those 98 defendants between the time of the filing of the initial complaint and the close of the court's filing window at the end of the day. Given the premeditation set forth in the "game plan", Respondents did not meet this burden.

[18]See the discussion below concerning the repeated refusal of Respondents to comply with Judge Monroe's order to disclose the identities of the fictitiously named defendants.

unknown for a long enough time to allow their aggressive settlement tactics described below to take place. The effect of such acts would be to discourage or prevent other defendants from joining together and retaining joint defense counsel to litigate their claims.

As is discussed later in this Decision and Order, it appears that Respondents engaged in various coercive settlement tactics with many of the thousands of defendants that were eventually named in the lawsuits they filed. Frequently, the settlement discussions occurred immediately after the defendants were named as "Does" and served. The threatening letters sent out referenced the value of settling fast to avoid incurring the fees of an attorney and associated costs.[19] Given the relatively small settlement amounts of $2,500 to $6,000, when compared with the costs of hiring an attorney, it became clear to many defendants that litigating was not a viable option. Because they were brought in as a "Doe" and knew of no other defendants other than the named defendant(s), their choice was to face this litigation alone, or settle. This is not a proper use of CCP section 474.

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Conclusion

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[19] The following is sent as one example of such a letter:

"Dear Sir or Madam.....

[Y]our company is being sued. Other shops have received notice as well. Some have challenged their lawsuits based on technicalities and now find themselves - after spending a lot of time, money, and energy - in exactly the same position in which they were initially. After all of that, they have two options: either pay even more money to fight in court or settle out of court and get on with business....

Many shops have chosen to settle. They have elected not to take time, money, and energy involved with this challenge, they have settled, and they have gone on with their business being mindful of their practices.

The history of this case shows that this is the most sensible option. Clearly you have every right to challenge this suit. But at this point, after seeing the progression of all these challenges, it is only fair to forewarn you that if you follow the same course you will experience the same dead end and be right back where you started. And you will have spent much more time and money on it than you would have liked."

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By misusing the provisions for designating fictitiously-named defendants, Respondents failed to maintain actions or proceedings as only appear just in violation of section 6068(c) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(5) Coercive Settlement Tactics

In addition to the use of law clerks to conduct settlement negotiations as set forth above, from September through December 2002, Respondents mailed out initial settlement demand letters printed on red paper ("the red letter"). The text of that letter is set forth above in footnote 19. After sending out the red letter, Respondents knowingly sent out subsequent mailings to UCL defendants containing false or misleading statements such as: (1) Respondents settled these types of UCL lawsuits for $6,000 to $26,000; (2) the UCL imposed "strict liability;" and (3) Restitution was available without individual proof of damages.

Respondents routinely mailed or faxed settlement packages to UCL defendants which contained a settlement agreement, stipulation for entry of judgment and permanent injunction and judgment ("settlement package"). Respondents made false or misleading statements in the settlement package. Specifically, the settlement package falsely stated that Respondents and CEW promised to "release Defendant from all Claims arising from or connected in any way with the occurrences alleged in the Complaint, or which were or could have been raised in the Action." The settlement package also falsely stated that judgment would bar any and all persons from prosecuting such claims under the principles of res judicata and/or collateral estoppel. In either case, Respondents did not have the power to release settling defendants from suit by other claimants.

In addition, paragraph 7 of the settlement agreement, provided that each party shall bear "its own costs, expenses and attorneys fees." This statement was misleading, since a large percentage of the settlement amount (between 70% and 90%) was to be applied to Respondents'

attorneys' fees. The agreement recognized this conflict since it also instructed the defendant to pay settlement amounts to Respondents and CEW, purportedly for "investigative fees and costs, expert fees, attorney's fees, monitoring fees and costs, and any other costs incurred as a result of investigation, litigating and negotiating a settlement."

Respondents also routinely threatened UCL defendants with audits or review of their business records pursuant to Business and Professions Code section 9880 in order to pressure them to settle their lawsuits. Respondents intimidated the defendants by telling them that a review of their business records would reveal more violations and, therefore, would cost them more money to settle. Even when there were court-ordered stays on discovery, Respondents routinely asked defendants to produce their business records in order to pressure settlement.

Sections 9880, *et seq.,* and Cal. Code Regs., tit. 16, section 3350, *et seq.,* requiring such disclosure relate to automotive repair shop defendants but not to restaurant defendants.[20] Despite this, Respondents also mailed letters to restaurant defendants containing false statements that the defendants were required to maintain four years of business records for inspection pursuant to section 9880 and Cal. Code Regs., tit. 16, section 3350. At no time were restaurants required to maintain such business records for inspection.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By knowingly using false or misleading language and coercive or intimidating language in settlement demand letters, and by threatening further prosecution and substantial discovery, Respondents engaged in coercive settlement tactics and committed acts involving moral

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[20]Section 3358 of title 16 of the California Code of Regulations requires that automotive repair dealers shall maintain legible copies of specified records for not less than three years and that such records be open for reasonable inspection and/or reproduction by the Bureau or other law enforcement officials during normal business hours. The records include invoices, written estimates and work orders or contracts.

turpitude, dishonesty or corruption in violation of section 6106;

By knowingly mailing settlement documents and letters containing false and misleading statements with the intent to advance their scheme to defraud and obtain settlement funds, Respondents committed mail fraud and acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

f. Aiding the Unauthorized Practice of Law

In early September through early December 2002, Respondents employed approximately ten law clerks to assist them with the UCL litigation. Respondents provided the law clerks with separate lists, each containing approximately 200 automotive shop defendants. They instructed the law clerks to look up each defendant's violations on the Bureau website and to insert the names of the listed defendants and recent violations into computer civil complaint templates. After the law clerks completed these tasks, one of the Respondents reviewed the complaint for filing.

However, the duties of the law clerks apparently went far beyond these ministerial or advisory capacities. After Respondents filed the UCL complaints, the law clerks were used to field telephone calls from the UCL defendants. Respondents gave them detailed "scripts" to follow in speaking with the defendants. These scripts even set forth "standard" settlement amounts of $2,500. As one law clerk stated:

> Based on this list [of automotive defendants] and directions from Damian Trevor, I determined whether a particular defendant was suitable for the aforementioned standard settlement offers.

(Exhibit 20, Declaration of Joshua Thomas, paragraph 20).

The law clerks were instructed to obtain authority to increase this amount if the law clerk determined there were multiple violations or the violations were particularly serious. One of the other clerks stated the following:

> [T]he Trevor Law Group instructed me and the other law clerks to offer a range of

> settlement depending on the number of violations against each defendant. The Trevor Law Group stated that if the defendant had repeated or egregious violations, the law clerks should bring the case to one of the attorneys for a higher settlement offer. ... The Trevor Law Group did not provide specific instructions regarding when a defendant should be considered a repeat or egregious offender. The Trevor Law Group authorized the law clerks to determine whether a defendant should be considered an egregious offender, thus, deserving of a higher settlement offer.

(Exhibit 22, Declaration of Negin Salimipour, paragraphs 10 - 11.)

Other scripts were provided that were to be used where defendants had purchased the business after the alleged violations had occurred. In those scripts, the law clerks were told to explain that the business was being sued under a theory of successor liability.

Sometimes, the law clerks were instructed to take the initiative and call defendants to encourage settlement. Law clerks were offered bonuses based on their success at obtaining settlements. Respondents paid bonuses to law clerks from one of their general accounts in amounts ranging from $250 to almost $3,000. One law clerk recalled being shown a chart by Respondents that indicated how the law clerks would qualify for their bonuses:

> [T]he Trevor Law Group showed the law clerks a chart which indicated that law clerks would get monetary bonuses depending on how many of the B&P 17200 cases settled in a certain time period. According to the chart, the faster cases settled, the larger the bonus would be.

(Exhibit 26, Declaration of Katherine Cheng, paragraph 14.)

Eventually, the law clerks became concerned about the UCL lawsuits and their roles. They met with each other in September or October 2002 and made a list of concerns. They were later assured by Respondents that CEW was a legitimate corporation, independent from The Trevor Law Group. They were also assured that there was no illegal fee splitting occurring and that portions of settlements were provided to CEW.

After the meeting where the law clerks raised their concerns, Respondents hired one of Trevor's friends, Zachary Rozsman. Mr. Rozsman's job was to handle the settlements, but he had no experience in handling such matters. Rozsman had been previously unemployed. Thereafter, Rozsman handled most of the telephone calls from UCL defendants and negotiated settlements on behalf of Respondents.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By authorizing the law clerks to exercise their discretion as to which defendants were egregious or repeat offenders who would then be subject to higher settlement demands, Respondents aided and abetted the unauthorized practice of law, in violation of rule 1-300(A) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

2. THE NATURE OF THE CASES FILED

As noted above, the types of cases before this Court have certain characteristics. They are all against service providers, including auto service shops, auto body shops, and restaurants. For the most part, they involved small companies. Often, the owners are ethnic minorities, sometimes immigrants with limited English skills. In each case, the information obtained about the company which formed the basis for the lawsuit was taken primarily, if not exclusively, from a government website, in the manner set forth above.

Very similar demand amounts and demand letters were used in many of the cases. In almost all of the cases, threats were made as to costs of litigation and exposure to audits or other reviews of business records. Similar settlement packages were sent to each defendant, containing misleading information about costs and the impact of settlement on future claims. In several cases, the matters were settled, then a new case filed and served against the same business, with an accompanying new demand for settlement.

When lawsuits were filed, the complaints reflected only generalized allegations that each of the defendants violated the relevant laws. Respondents alleged that the defendants' failure to follow the law constituted a violation of the UCL.

In some cases, the auto shops had only been issued minor Notices of Violation, a document issued when only ministerial or technical violations occur and formal disciplinary action is not warranted. According to the Department of Consumer Affairs, most shop owners consider these notices simply a tool to assist them in avoiding future discipline. Similarly, the restaurants sued often had minor violations listed on the Los Angeles County Department of Health Services website. Often, the Department issues minor violations and still gives the establishment a high letter grade of "A" or "B". In a few situations, the owner at the time of the lawsuit was not the owner at the time of the alleged violation.

The websites for both the Department of Consumer Repairs and the Los Angeles County Department of Health Services listed a disclaimer limiting the appropriate uses of the information in the websites. Further, both disclaimers cautioned against relying on the accuracy of the information set forth in the website.

a. <u>The Auto Shop Cases</u>

Commencing in April 2002, Respondents sued approximately 2,000 automotive repair defendants in UCL litigation. Some of these cases were coordinated before Judge Carl West in the Los Angeles Superior Court.[21] Some of these cases were also the subject of this proceeding, including the following:

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[21]All of these cases have been dismissed pursuant to Judge West's April 1, 2003, order in *In re Automobile Repair Cases*, Los Angeles Superior Court, case no. BC 281693.

(1) Mission Viejo Transmissions

On April 11, 2002, Respondents filed UCL litigation against 7 Day Tire.[22] The complaint named one defendant and 30,000 "Doe" defendants. On April 15, 2002, Kevin Hurley ("Hurley"), owner of Mission Viejo Transmissions received a copy of the complaint in the 7 Day Tire Case which did not name Mission Viejo Transmissions as a defendant. In May 2002, Hurley received documents indicating that Mission Viejo was a named defendant in the 7 Day Tire Case. On May 15, 2002, Hurley received a demand for production of documents.

One of Respondents' representatives called Hurley around this time. Hurley explained that the allegations against Mission Viejo were false because they referred to an old license which Hurley had surrendered to the Bureau in October 2001. Respondents told Hurley that he could settle the lawsuit by paying $2,500 and that he would be sorry if he fought the lawsuit because Respondents would put him out of business.

Hurley retained counsel, Glen Mozingo ("Mozingo"), to represent him and Mission Viejo Transmissions in the 7 Day Tire Case. Mozingo telephoned Respondents and informed the office that he was representing Hurley and Mission Viejo Transmission and that all future contact should be through Mozingo's office. Respondents continued to telephone Hurley to pressure him to settle the lawsuit, including telling Hurley that he was in big trouble if he did not settle and that Respondents could examine Hurley's business records and make it very embarrassing for Hurley to fight the lawsuit.

In July 2002, Hurley retained attorney Kathleen Jacobs ("Jacobs") to take over for Mozingo in the 7 Day Tire Case. On November 3, 2002, Hurley and Jacobs attended a court hearing in the 7 Day Tire Case on behalf of Mission Viejo Transmissions.

After the hearing, Hurley saw Respondents Han, Trevor and three other individuals

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[22]On August 30, 2002, the Orange County Superior Court designated the 7 Day Tire Case complex, assigned it to Judge James V. Selna ("Judge Selna") and deemed the following case numbers related: 02CC00250, 02CC00251, 02CC00252, 02CC00253, 02CC00254, 02CC00255, 02CC00256.

getting into an automobile parked next to Hurley's car in the courthouse parking lot. Hurley asked Respondent Trevor why he was pursuing the lawsuit and told him that he had been in the automotive business for 23 years and had worked at the highest ranked AAMCO shop in the country for 17 years. Respondent Trevor responded by telling Hurley that if he "really wanted out of this suit," Respondents would hire Hurley as their own "expert witness." Respondent Trevor told Hurley that he would be "well paid" if Hurley agreed to be their expert witness. Either Respondents Han or Trevor gave Hurley a business card and asked him to call or come to Respondents' office. Hurley did not become an expert witness for Respondents.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By communicating with Hurley after Mozingo informed Respondents that he was representing Hurley and Mission Viejo Transmissions, Respondents communicated with a represented party in violation of rule 2-100(A);

By threatening to put Hurley out of business if he did not settle the lawsuit and telling Hurley he could get out of the lawsuit by becoming their expert witness, Respondents Trevor and Han committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) Nino Auto Service

Nino Auto Service had a valid Bureau license and no history of discipline or complaints with that agency.

In April 2002, Rula Hanna Nino ("Rula "), owner of Nino Auto Service, received a copy of the complaint in the 7 Day Tire Case. Soon thereafter, Respondents sent settlement demand

letters and a settlement package which contained false and/or misleading statements, to Nino Auto Service. Respondents also repeatedly telephoned the business trying to pressure Nino Auto Service into settling the lawsuit.

Rula Nino and her family were preoccupied with medical and financial problems during this time. Rula's mother was ill due to diabetes. Her sister, Mirena, had been diagnosed with leukemia in November 2001, and was in and out of the hospital through March 28, 2002. Although doctors determined that Rula was a match for Mirena's bone-marrow transplant, they also discovered that Rula had ovarian tumors. On July 30, 2002, Rula was admitted to the hospital for removal of the tumors. On September 17, 2002, she and Mirena underwent a bone-marrow transplant. During this time period, Rula relied on her father ("Mr. Nino"), who speaks limited English, to manage Nino Auto Service.

During this time period, Respondents repeatedly telephoned Mr. Nino about the lawsuit. This disrupted business and caused Mr. Nino much stress. Rula instructed him not to answer the telephone because of Respondents's numerous calls.

Respondents demanded $2,500 as settlement of the 7 Day Tire Case and requested production of Nino Auto Service's business records. Rula and her family started preparing copies of their business records. They did not understand what, if anything, they had done wrong. Rula then retained Jacobs for $1,500 to represent Nino Auto Service in the 7 Day Tire Case.

Rula Nino's family had to borrow money to pay for the medical expenses relating to Mirena's treatment and, since the filing of the 7 Day Tire Case, they had to shut down Nino Auto Service. Since retaining Jacobs, the Nino family has been unable to pay Jacobs any more fees.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been

addressed *supra* at section IV.1.d.(3);

By repeatedly telephoning Nino Auto Service, sending settlement demand letters which contained false and/or misleading statements, requesting production of business records in order to pressure Nino Auto Service into settling the lawsuit, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(3) Irvine Speedometer & Cruise Control Service

On April 2002, Respondents served a copy of the complaint in the 7 Day Tire Case on Kelly Stelle ("Stelle"), owner of Irvine Speedometer & Cruise Control Service ("Irvine Speedometer"). Stelle became the owner of Irvine Speedometer in September 2001. The complaint did not list Irvine Speedometer as a defendant. Later, Stelle received a "Doe" amendment to the complaint showing Irvine Speedometer as a defendant.

On April 29, 2002, Stelle contacted the Bureau to determine whether Irvine Speedometer had any pending action or complaint. The Bureau faxed Stelle documents stating that there had been no disciplinary actions or complaints against Irvine Speedometer within the past three years but noting NOVs issued in August 2001 before Stelle became owner of Irvine Speedometer.

During two telephone conversations between Stelle and Respondents' representatives, Stelle pointed out that she had only recently purchased Irvine Speedometer. The Respondents' representative did not explain the basis of the lawsuit against Irvine Speedometer but rather pressured Stelle to settle it.

Stelle then consulted with an attorney who informed her that it would cost thousands of dollars to defend the lawsuit and that it would be less expensive to simply settle it. Stelle could not afford to defend the lawsuit and agreed to settle it for $2,000. She did not understand what she had done wrong or why she was subject to the lawsuit.

On May 1, 2002, Respondents faxed Stelle a settlement package containing the previously discussed false and/or misleading statements.

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Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By sending a settlement package that contained false or misleading statements in order to pressure Irvine Speedometer into settling the lawsuit, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

The Court does not find that there is a reasonable probability that the State Bar will prevail as to the following charges pursuant to section 6007(c)(2)(C):

By obtaining settlement funds from Irvine Speedometer on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106. There is no allegation that Respondents obtained settlement funds from Irvine Speedometer.

(4) Custom Motors Enterprises, Inc.

In April 2002, Respondents's process server gave Barry Bloch ("Bloch"), employee of Custom Motors Enterprises, Inc. ("Custom Motors"), a copy of the complaint in the 7 Day Tire Case. Bloch informed the process server that he was not an owner or officer of the business and that he would not accept service. In response, the process server dropped the complaint on Bloch's desk and left. Bloch informed his supervisor, Barbara Page ("Page"), who told Bloch that Custom Motors would retain counsel in the matter.

Two days later, Respondent Trevor telephoned Bloch about the lawsuit. Bloch informed Respondent Trevor that he was not the right person to speak with about the lawsuit as Bloch was merely an employee at Custom Motors. Respondent Trevor replied by asking Bloch if he knew the consequences of failing to answering the complaint. Respondent Trevor also told Bloch that

he had the right to shut down Custom Motors.

On April 19, 2002, Custom Motors retained counsel John Darcy Bolton ("Bolton"). On April 29, 2002, Bolton sent Respondents a letter disputing the allegations against Custom Motors and requesting specific facts regarding the allegations which were vague and uncertain. On May 8, 2002, Respondent Trevor sent Bolton a response that did not provide specific facts to support the allegations.

In April or May 2002, Respondent Trevor telephoned Bloch a second time and stated that Custom Motors was without counsel and in contempt of court. Bloch again informed Respondent Trevor that he was not the correct person to speak with about the lawsuit and informed Respondent Trevor that Bolton represented Custom Motors in the lawsuit. Respondent Trevor demanded four years of business records from Bloch and stated that he could refer any violations he found to the Grand Jury for prosecution. Respondent Trevor telephoned Bloch a third time stating that Custom Motors needed to settle the lawsuit. Bloch hung up on Respondent Trevor.

In the middle of May 2002, Respondent Hendrickson telephoned Bolton regarding the 7 Day Tire Case. Bolton told Respondent Hendrickson that Custom Motors had no intention of settling the lawsuit. Approximately 30 minutes later, Respondent Hendrickson directly telephoned Bloch asking him to settle the lawsuit. Bloch hung up on Respondent Hendrickson.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By communicating with Bloch after he informed Respondents that Custom Motors was represented by counsel, Respondents Trevor and Hendrickson communicated with a represented

party in violation of rule 2-100(A);

By engaging in coercive settlement tactics such as pressuring Bloch to settle, threatening to shut down Custom Motors, threatening to review its business records and refer violations to the Grand Jury, Respondent Trevor committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(5) Bestrans

In April 2002, Clifford McKay ("McKay"), owner of Bestrans, contacted Respondent Trevor regarding the 7 Day Tire Case and offered to pay $400 - 500 to settle the suit. Respondent Trevor told McKay that he could pay $2,000 by the end of the day or else the settlement offer would increase to $4,000 the next business day. McKay agreed to pay the settlement offer.

On April 29, 2002, McKay wire-transferred $2,000 into Trevor Law Group's Wells Fargo client trust account no. 2082816642 ("CTA No. 208"). On June 28, 2002, without disbursing any portion of the $2,000 to CEW, Respondents withdrew all funds from that CTA and deposited the funds into Trevor Law Group's Wells Fargo general account no. 713858254 ("GA No. 713").

Approximately a month or so later, Respondents sent McKay a settlement package regarding the 7 Day Tire Case that contained the false or misleading statements previously discussed.

After receiving the settlement documents, McKay telephoned Respondents to inquire why he had to sign any documents in light of the fact that he had already settled the lawsuit. He was told to call back later to speak to Respondent Trevor directly. McKay asked his business partner, Mike Flores ("Flores") to do so.

Flores told Respondent Trevor that neither McKay or he agreed with the terms in the settlement agreement. Respondent Trevor told Flores that he could black out the portions of the settlement agreement with which he disagreed. McKay and Flores reviewed the settlement agreement and disagreed with the majority of the language. They did not sign or return it.

In September 2002, Respondents served Bestrans with a copy of the complaint in case no. 02CC00293 ("3 Stage Auto Body Case"). After receiving the complaint, Flores telephoned Respondent Trevor and asked why they were suing Bestrans again in a separate lawsuit after Bestrans had paid $2,000 to Respondents. Respondent Trevor told Flores that the second lawsuit was a mistake and that the matter with Bestrans had been resolved. Flores asked Respondent Trevor to send him proof of dismissal.

In November 2002, Respondents dismissed Bestrans from the 3 Stage Auto Body Case but Bestrans was not given notice or a copy of the request for dismissal.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By obtaining settlement funds from Bestrans on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106;

By not maintaining the settlement funds in a trust account, depositing them into a general account and not disbursing to CEW its portion of the settlement funds, Respondents failed to maintain settlement funds held in trust on behalf of a client in violation of rule 4-100(A) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(6) A&A Auto Center

In April 2002, Ahmad Ghanavatzadeh ("Ghanavatzadeh"), owner of A&A Auto Center, Inc., received a copy of 7 Day Tire Case lawsuit, which alleged that A&A Auto Center had an expired license. Ghanavatzadeh checked the Bureau website and confirmed that his Bureau license was valid. Ghanavatzadeh had incorporated his business on January 7, 1999,

and obtained a new Bureau license under the corporation name A&A Auto Center, Inc. Ghanavatzadeh had always operated his business with a valid Bureau license.

After receipt of the 7 Day Tire Case lawsuit, Ghanavatzadeh telephoned Respondent Trevor, who began yelling and screaming at him. Ghanavatzadeh tried to calm Respondent Trevor down and asked which customer(s) had made any complaints against A&A Auto Center, Inc. Respondent Trevor told Ghanavatzadeh that he did not represent any customers and that the basis of the lawsuit was Ghanavatzadeh's expired Bureau license. Ghanavatzadeh explained to Respondent Trevor that he had incorporated the business and obtained a new Bureau license. Respondent Trevor called Ghanavatzadeh a liar and hung up on him.

Approximately ten minutes later, Respondent Trevor telephoned Ghanavatzadeh and demanded $2,500 as settlement of the lawsuit. Respondent Trevor also demanded that Ghanavatzadeh produce four years of business records so that Respondents could "audit" the records. Respondent Trevor told Ghanavatzadeh that mechanics always make mistakes on their paperwork and that Respondent Trevor would find "mistake after mistake" in Ghanavatzadeh's business records. Ghanavatzadeh refused the settlement offer and told Respondent Trevor that he was represented by counsel.

Approximately one week later, Respondent Trevor telephoned Ghanavatzadeh again. Respondent Trevor demanded $2,000 as settlement of the 7 Day Tire Case and gave Ghanavatzadeh until the next day to pay. Respondent Trevor told Ghanavatzadeh that if he did not pay $2,000 by the following day, the settlement offer would increase to $2,500. Ghanavatzadeh rejected the offer and instructed Respondent Trevor to stop calling him.

The next week, Respondent Trevor telephoned Ghanavatzadeh and demanded $1,500 to settle the lawsuit. Ghanavatzadeh rejected the offer and again told Respondent Trevor that he was represented by counsel. During the next 25 days, Respondent Trevor continued to telephone Ghanavatzadeh about the 7 Day Tire Case, but Ghanavatzadeh was out of town. In May 2002, Ghanavatzadeh consulted with Jacobs and retained her in late May 2002.

In June 2002, Respondents sent Ghanavatzadeh letters and documents relating to the 7 Day Tire Case, which Ghanavatzadeh forwarded to Jacobs. On July 26, 2002, Respondents' firm telephoned Ghanavatzadeh and then transferred the call to Respondent Trevor. Respondent Trevor demanded $2,500 as settlement. Ghanavatzadeh told Respondent Trevor that he would not pay more that $500 to settle the lawsuit. Respondent Trevor then told Ghanavatzadeh that he would not have to pay any settlement money if Ghanavatzadeh would gather a group of automotive repair shop defendants and convince them to settle their lawsuits with Respondents. Respondent Trevor told Ghanavatzadeh that it was the only way Ghanavatzadeh could get out of the 7 Day Tire Case. Ghanavatzadeh rejected Respondent Trevor's offer and refused to convince others to settle their cases.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By repeatedly telephoning Ghanavatzadeh to force settlement, threatening to audit business records and find mistakes and telling him that the only way out of paying money was convince other defendants to settle their lawsuits, Respondent Trevor engaged in coercive settlement tactics and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By directly telephoning Ghanavatzadeh after being told he was represented by counsel, Respondent Trevor communicated with a represented party, in violation of rule 2-100(A).

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(7) Autotronix

In April 2002, Mohammed Aboabdo ("Aboabdo"), owner of Autotronix, received a copy of the complaint in the 7 Day Tire Case. In early April 2002, Respondents telephoned Aboabdo's secretary, Jennifer Ny ("Ny"). Ny explained to the representative that Autotronix was not an automotive repair business. Respondents told Ny that it did not matter and that Autotronix had to pay money in order to settle the lawsuit.

From April through September 2002, Respondents continued to telephone Ny about the 7 Day Tire Case. During each telephone call, Ny again explained that Autotronix was not in automotive repair business.

Aboabdo paid $5,000 to retain counsel for Autotronix in the 7 Day Tire Case. In September 2002, Aboabdo decided to settle the lawsuit with Respondents. Aboabdo issued a check payable to CEW in the amount of $2,500, as full settlement of the lawsuit.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By obtaining settlement funds from Autotronix on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(8) Fountain Valley Auto & Truck Repair

In April 2002, Beverly Fard ("Fard"), owner of Fountain Valley Auto & Truck Repair ("Fountain Valley"), received a copy of the complaint in the 7 Day Tire Case, which did not name Fountain Valley as a defendant nor allege any misconduct against it.

On May 1, 2002, Fard spoke with Respondent Trevor who told Fard that she could pay

between $2,500 - $7,000 to settle the lawsuit. Trevor also told Fard that Fountain Valley had numerous violations but he could not specify the nature or details of the alleged violations. Fard told Respondent Trevor that Fountain Valley did not have violations.

During this telephone conversation, Fard told Respondent Trevor that she would retain counsel to defend against the lawsuit. Fard asked Respondent Trevor for the address and agent for service of process for CEW. Respondent Trevor refused to provide that information to Fard.

Respondents mailed Fard an amended complaint or "Doe" amendment which alleged that Fountain Valley had delayed in registering its Bureau license. In July 2002, Fard retained Jacobs to represent her in the 7 Day Tire Case.

On October 9, 2002, Negin Salimipour ("Salimipour"), one of Respondents' law clerks, told Fard that Fountain Valley was in default. Fard told Salimipour that Jacobs represented her.

About ten minutes later, Josh Thomas ("Thomas"), another of Respondents' law clerks, called Fard. Fard told Thomas that she did not want to talk to him and hung up.

On October 25, 2002, Salimipour called Fard again and told her that she could not fight the lawsuit and that Respondents would obtain a judgment and lien against Fountain Valley and would send a sheriff to the business.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By refusing to provide the name and address for CEW's agent for service of process, having office staff contact Fard after Fard stated she was represented by counsel, representing through Salimipour that Respondents would obtain a judgment and lien and send a sheriff to Fard's business, Respondents engaged in coercive settlement tactics and committed acts of moral

turpitude, dishonesty or corruption in violation of section 6106.

(9) Pazzulla Automotive & Marine

In April 2002, Michael Pazzulla ("Pazzulla") received documents from Respondents regarding the 7 Day Tire Case. Since Pazzulla did not understand them, he left a message for someone at Respondents' office to call him back about them. Pazzulla then asked his friend, attorney Nick Bebek ("Bebek"), to review them.

Later that week, Bebek spoke with Respondent Hendrickson about the lawsuit. Respondent Hendrickson told Bebek that Pazzulla did not pay his business fees on time and there were two incidents with the Bureau.

When Pazzulla and Bebek attended a meeting with other auto shop defendants in Costa Mesa, they learned that the law firm of Rutan & Tucker was representing Firestone Bridgestone Service Center and that the due dates for responsive pleadings had changed. Later, Bebek and Pazzulla heard the parties were back in court and that Pazzulla's responsive pleadings would be due. Pazzulla decided to settle the lawsuit because he did not want to worry about it anymore.

In June 2002, Bebek again spoke to Respondent Hendrickson who sought a settlement of $1,000 with an injunction against Pazzulla's business. Bebek told Respondent Hendrickson that any infraction against Pazzulla's business was minor and that the lawsuit was overkill. Respondent Hendrickson told Bebek that if the case proceeded, Respondents would find more violations against Pazzulla in discovery and that the case could get very expensive. Respondent Hendrickson told Pazzulla that he would check with his client to discuss the offer.

The next day, Respondent Hendrickson telephoned Bebek and offered $1,500 as settlement of the 7 Day Tire Case. Bebek and Respondent agreed that settlement would not include inspection of business records or any agreement regarding future action by Respondents.

On July 1, 2002, Pazzulla issued a cashier's check in the amount of $1,500, as settlement of the 7 Day Tire Case. Pazzulla's son took it to Respondent Han.

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Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By obtaining settlement funds from Pazzulla on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(10) Quality Lube

Respondents filed Case No. BC281693 ("Porters Automotive Case") on September 18, 2002, naming Quality Lube as a defendant. On October 17, 2002, John Maida ("Maida"), owner of Quality Lube, propounded interrogatories to CEW, requesting the names of all past and present officers, directors and shareholders. Maida's interrogatories also requested information on whether there were any individuals in common between Respondents and CEW whether CEW was created to be a vehicle for UCL litigation.

On November 19, 2002, Respondent Trevor signed responses to Maida's interrogatories, stating that Kort was the incorporator of CEW but there were no known officers, directors or shareholders of CEW. Respondent Trevor's responses also falsely stated that there were no individuals in common between CEW and Respondents when, in reality, Strausman was an employee of Respondents and CEW's agent for service of process.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false and misleading statements in discovery responses regarding the purpose of CEW's creation and the individuals in common between Respondents and CEW, Respondent

Trevor committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(11) Race Marquee Systems.

At all relevant times, Race Marquee Systems had a valid Bureau license and no history of discipline with the Bureau.

On November 5, 2002, attorney Raymond Lloyd Arouesty ("Arouesty") sent a letter to Respondent Han on behalf of Race Marquee Systems ("Race Marquee"), a defendant in the Porters Automotive Case. The sole allegation against Race Marquee Systems was that it was operating without a valid Bureau registration.

Arouesty's letter explained that Race Marquee was in compliance with Bureau regulations and enclosed documents demonstrating that it had a valid Bureau license at all times. Arouesty requested a dismissal of the lawsuit.

On November 8, 2002, Respondent Han made Arouesty a settlement offer of $2,650. Arouesty asked Respondent Han if he had seen the supporting documents Arouesty had sent. Respondent Han told Arouesty that he would have someone look into it and call him back. Later that day, Respondent Trevor telephoned Arouesty and reiterated the settlement offer of $2,650. Arouesty asked Respondent Trevor if he questioned the authenticity of the supporting documents.

Respondent Trevor told Arouesty that it did not matter because the allegations in the complaint were merely the "tip of the iceberg." He said that he would take depositions and subpoena four years of Race Marquee's business records and that he was certain he would find many more violations. Arouesty told Respondent Trevor that he would see him in court on a demurrer or motion for summary judgment. Respondent Trevor responded by telling Arouesty that he obviously did not practice this type of law.

On November 11, 2002, Respondent Han faxed Arouesty documents including a settlement agreement stating that settlement funds were jointly and severally payable to

Respondents and CEW for "investigative fees and costs, expert fees, attorney's fees, monitoring fees and costs, and any other costs incurred as a result of investigating, litigating, and negotiating settlement in this matter." The settlement package required confidentiality and provided that CEW could seek damages for breach of confidentiality. The confidentiality provision precluded all types of communications including press conferences and media interviews. The documents also contained a stipulation for entry of judgment and permanent injunction stating that the judgment would bar "any and all other persons from prosecuting such claims" under the "principles of *res judicata* and *collateral estoppel.*"

Arouesty sent copies of the complaint and settlement documents to another attorney to take over the case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By sending settlement documents that contained false and misleading statements, Respondent Han committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(12) Universal Tire & Auto Repair

On October 14, 2002, Mike Nazari ("Nazari"), owner of Universal Tire and Auto Repair ("Universal Tire"), received a copy of the complaint in the Porters Automotive Case in which Universal Tire was named as a defendant. Nazari had purchased the business on January 1, 2002.

Nazari spoke to someone at Respondents' office and explained that the allegations in the complaint related to the previous owner who must have cancelled his Bureau license. Nazari

explained that he had obtained a Bureau license for Universal Tire in January 2002. In response, Respondents told Nazari that he had to produce four years of business records for them.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

(13) Arco Smog Pros

On September 18, 2002, Respondents filed case no. 02CC00278 ("Amigo Auto Case"). On October 22, 2002, Michael Batarseh ("Batarseh") received a copy of the complaint which named his business, Arco Smog Pros ("Arco"), as a defendant.

Batarseh asked someone at Respondents' office why he was being sued and explained that his business only had one administrative issue with the Bureau that he resolved in January 2001. Respondents told Batarseh that they had a right to sue him and, if he insisted on defending the lawsuit, they would shut down his business. Respondents also told Batarseh that he could settle the case for $2,500.

On October 23, 2002, Batarseh informed Respondents that he was willing to pay $500 to settle the lawsuit. Respondents told Batarseh that he would receive settlement documents and that he should return them with a check for $2,500.

On October 30, 2002, Batarseh received a settlement package from Respondents. The next day, Respondent Han told Batarseh that it was in his best interest to settle. Batarseh rejected the settlement offer. A few days later, Batarseh retained Jacobs as counsel.

On November 8, 2002, Respondent Han again called Batarseh to discuss settlement. Although Batarseh informed him that he was represented by counsel, Respondent Han continued the conversation and said that Batarseh was wasting time and money on attorney fees if he

refused to settle. He also said that if Batarseh fought the lawsuits, he would have to appear at Respondents's office and produce his financial records. Batarseh terminated the telephone call and informed Jacobs of what had happened. Respondents have refused to dismiss Arco from the lawsuit.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By speaking directly with Batarseh after being told that he was represented by counsel, Respondent Han communicated with a represented party, in violation of rule 2-100(A).

(14) Kelly's Body Shop

On October 14, 2002, Benjamin Mendoza ("Mendoza"), owner of Kelly's Body Shop, received a copy of the complaint in the Amigo Auto Case in which his business was named as a defendant. The complaint alleged that Kelly's Body Shop had been operating without a valid Bureau license since January 31, 2002. In January 2002, Mendoza incorporated his business and obtained a new Bureau license for the corporation. At all times, Mendoza was in communications with the Bureau about the incorporation and new license.

At all relevant times, the Bureau website posted information stating that Kelly's Body Shop had a cancelled license on January 31, 2002, and that Kelly's Body Shop, Inc., had a valid license through February 28, 2004. Neither Kelly's Body Shop nor Kelly's Body Shop, Inc., had any disciplinary action by the Bureau. Due to the lawsuit, Mendoza retained attorney Ed Sybesma ("Sybesma") to defend his business in the Amigo Auto Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability

that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

(15) Rosano/Auto Man Transmission

In October 2002, Robert Rosano Jr. ("Rosano") learned he was a defendant in one of Respondents' UCL lawsuits. On November 7, 2002, Respondents noticed Rosano's deposition for December 6, 2002, and requested that he bring three years of business records.

On November 14, 2002, Rosano called Respondents and asked to speak to Respondent Han. Instead, the receptionist put Rosano through to Rozsman. Rosano told Rozsman that he was calling about the deposition on December 6, 2002. Rozsman asked Rosano if he wanted to settle the case. Rosano told Rozsman that he has had a valid Bureau license for the past 20 years. Rozsman told Rosano that his business had another violation. Rosano asked Rozsman if he knew what the other violation was about. Rozsman did not reply. Rosano then asked Rozsman if he could change the scheduled time of the deposition. Rozsman stated that he would call Rosano back.

On November 25, 2002, Rosano sent Respondent Han a letter seeking to change the time of his deposition. On December 2, 2002, Rozsman telephoned Rosano and stated that the deposition time could not be changed and that it was in Rosano's best interest to settle the lawsuit. Rozsman told Rosano that the typical settlement would be more than $3,000 but that Rozsman would be willing to settle for $2,500 if Rosano concluded the matter within the next couple of days. Roszman stated that if Rosano did not settle the case, the next step would cost Rosano $8,000 - $10,000 in legal fees. Rosano rejected Rozsman's settlement offer.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

(16) The Transmission House

On September 20, 2002, Respondents filed case no. BC281865 ("A-1 Smog Muffler Case"). On October 18, 2002, Avo Kampuryan ("Kampuryan"), owner of The Transmission House, received a copy of the complaint which named his business as a defendant.

Kampuryan spoke to Respondent Han and explained that the allegation against The Transmission House was false because he had a valid Bureau license. Nonetheless, Respondents sent Kampuryan a copy of the red letter advising him to settle the lawsuit. Kampuryan refused to settle and The Transmission House remains a defendant in the A-1 Smog Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

(17) The Auto Clinic

On September 19, 2002, Respondents filed case no. BC2811768 ("A.C. Auto Case"). On October 14, 2002, Leonel Lujan ("Lujan"), owner of The Auto Clinic, received a copy of the A.C. Auto Case complaint which named his business as a defendant.

On January 17, 2003, Lujan spoke to Respondent Han who told him that he could settle the case for $8,000. Lujan told Respondent Han that $8,000 was a large sum of money and asked for the lowest settlement offer possible. Respondent Han told Lujan that he would check with his partner and call Lujan back. The next day, Respondent Han made Lujan a settlement offer of $4,000. Lujan told Respondent Han that he did not have that amount of money. Respondent

Han told Lujan that if he did not pay $4,000, Respondents would take him to court and the cost of litigation would be around $18,000. Respondent Han asked Lujan to produce four years of business records and told Lujan that he would find additional violations that would cost Lujan more money. Respondent Han told Lujan that he would do whatever he could so Lujan's Bureau license would be revoked. Lujan then retained counsel to represent him.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By threatening to increase Lujan's litigation costs to $18,000, to review four years of business records to find more violations and to try to have Lujan's Bureau license revoked if he did not settle the case, Respondent Han committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(18) Alvarez Tire Center

On October 15, 2002, Luis Alvarez ("Alvarez"), owner of Alvarez Tire Center, received a copy of the complaint in the A.C. Auto Case, which named his business as a defendant. On October 16, 2002, Respondents told Alvarez that he could settle the case for $2,800. Alvarez requested a meeting with Respondents to discuss the lawsuit.

On November 5, 2002, Alvarez and his son Caesar met with Respondent Trevor. Respondent Trevor told Alvarez that if he did not settle the lawsuit, Alvarez would have to turn over five years of business records. Respondent Trevor told Alvarez that if he did not settle the lawsuit, it would cost up to $15,000 to fight the matter in court. Alvarez agreed to settle the case for $2,800 and issued a check payable to both Respondents and CEW in that amount.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the

failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By threatening to increase Alvarez's litigation costs to $15,000 and to require production of five years of business records if he did not settle, Respondent Trevor committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds from Alvarez Tire Center on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(19) Charlie's Transmissions

On October 27, 2002, David Oh Duk Kim ("Oh Duk Kim"), owner of Charlie's Transmissions, received a copy of the complaint in the A.C. Auto Case which named his business as a defendant.

On November 2, 2002, Oh Duk Kim spoke to Respondents' law clerk Milli Kim who told him that he could settle the case for $2,800. Oh Duk Kim decided to settle rather than paying for legal representation.

Oh Duk Kim received a settlement package which contained false and/or misleading statements and instructed him to pay $2,800 to both Respondents and CEW. On November 8, 2002, Oh Duk Kim issued a check for $2,800 payable only to Respondents as Milli Kim instructed.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By sending a settlement package that contained false and/or misleading statements in

order to pressure settlement, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds from Charlie's Transmissions on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(20) Arco Plaza Auto Center

On October 25, 2002, Jong Kim, owner of Arco Plaza Auto Center, received a copy of the complaint in the A.C. Auto Case which named his business as a defendant.

Respondents' law clerk Milli Kim told Jong Kim that he could settle the case for $2,500 and that the money was reimbursement to Respondents for all the labor that went into filing the lawsuit. Jong Kim said that he would think about it. He then spoke to several attorneys about representation in the matter. The least expensive attorney Jong Kim could find cost $3,000 so he decided to settle the lawsuit rather than pay more money in attorney fees.

A couple of weeks after the initial telephone call with Respondents, Jong Kim telephoned Milli Kim and asked if Respondents would accept anything less than $2,500 in settlement. The response was that the settlement offer had increased to $3,000. Jong Kim told Milli Kim that the offer had been $2,500. Jong Kim heard Milli Kim put his hand over the telephone receiver and asked someone if Arco Plaza Auto Center could settle for $2,500. Milli Kim then offered Jong Kim $2,500 to settle the case. Milli Kim instructed Jong Kim to issue a check immediately and send a copy via facsimile to Respondents.

Jong Kim issued a check payable to Respondents in the amount of $2,500. Milli Kim faxed Jong Kim a settlement package which contained false and/or misleading statements.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the

failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By sending a settlement package containing false and/or misleading statements in order to pressure settlement, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds from Arco Plaza Auto Center on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

(21) Trini's Auto Body Shop

On September 20, 2002, Respondents filed case no. BC281865 ("Oklahoma Tire Case"). In October 2002, Armando Mendoza, owner of Trini's Auto Body Shop ("Trini's"), received a copy of the complaint in the Oklahoma Tire Case naming his business as a defendant.

In October 2002, Respondents sent Armando Mendoza a Notice of Case Management Conference scheduled for February 10, 2003. On February 9, 2003, Mendoza asked his friend, Lanny Dugar ("Dugar") to accompany Mendoza's father to the case management conference. Dugar did so.

On February 11, 2003, Dugar spoke to Respondent Han about the Oklahoma Tire Case on behalf of Trini's. Respondent Han told Dugar that Trini's could pay approximately $2,000 to be released from the lawsuit and protected from further lawsuit over the next four years. Dugar told Respondent Han that Trini's would not pay more than $1,000 to settle the lawsuit. Respondent Han stated that he would check with his client and call back.

On February 26, 2003, Dugar again spoke to Respondent Han. Respondent Han agreed to $1,000 as settlement of the Oklahoma Tire Case. Dugar advised Respondent Han that he was aware that the State Bar was investigating Respondents regarding the UCL litigation. Respondent Han stated that what he was doing was legal and approved by a judge in Orange County.

The next day, Armando Mendoza received a settlement package from Respondents. The settlement package provided for a $1,221.20 settlement payment to both Respondents and CEW.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By sending a settlement package which contained false and/or misleading statements in order to pressure settlement, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By obtaining settlement funds from Trini's on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106. There is no allegation that Respondents obtained settlement funds from Trini's.

b. The Restaurant UCL Cases

Hundreds of restaurants were sued by Respondents pursuant to the UCL. In this section, those addressed in the Application are discussed.

(1) HHB as a Plaintiff

Without Robert Acosta's knowledge or consent, Respondents filed four UCL lawsuits on behalf of Helping Hands for the Blind on November 26, 2002, naming over 1,000 individual restaurant defendants.[23] Respondents based the allegations of the lawsuits on the information posted in the LADHS website.

When Acosta returned from vacation on November 30, 2002, he retrieved several messages on his answering machine from angry restaurant owners. When Acosta telephoned

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[23]Acosta was president of HHB. The HHB - related lawsuits were case nos. BC286006, BC286007, BC286008 and BC286009.

Respondent Hendrickson to ascertain what had happened, he was told that Respondents had filed a lawsuit to gain equal access of accommodations for the blind. When he reviewed the faxed copy of the lawsuit he requested from Respondents, he realized that the suit did not seek Braille menus or equal access for the blind.

On December 5, Acosta retained counsel, Charles Alpert ("Alpert") to communicate with Respondents and make sure that the HHB lawsuits were dismissed. On December 10, 2002, Alpert sent via facsimile a letter indicating that he was Acosta's attorney and requesting dismissal of the lawsuits and conformed copies of the requests for dismissal. The next day, Respondents faxed Acosta a letter stating that they were dismissing the lawsuits and informing Acosta that he "may have some exposure for malicious prosecution and/or abuse of process retaliation lawsuits" due to the HHB lawsuits. Alpert sent Respondents another letter asking for conformed copies of the requests for dismissal but Respondents never provided them to him or to Acosta. Respondents dismissed the cases on December 11, 2002, but did not serve the defendants with notice of the dismissal. They then filed a new UCL lawsuit naming CEW as the plaintiff, making the same allegations against the same defendants.

Unknown to Acosta, Respondents settled with defendants involved in the HHB lawsuits. Respondents never informed Acosta or Alpert that they had received at least $3,710 in settlement funds in connection with the HHB lawsuits. Respondents concealed the receipt of settlement funds from HHB.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing four lawsuits on behalf of HHB without its knowledge or authorization and in furtherance of their scheme to defraud, Respondents appeared for a party without authority in violation of section 6104 and committed acts involving moral turpitude, dishonesty or corruption in violations of section 6106;

By obtaining funds in connection with the HHB cases which were filed without HHB's knowledge and authority, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By not notifying Acosta and by concealing from him the settlement funds obtained in relation with the HHB cases, Respondents violated RPC 4-100(B)(1) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) Hawaii Super Market, Inc.

On November 26, 2002, Cindy Lau ("Lau"), store manager of Hawaii Super Market, Inc., ("Hawaii Market") received a copy of the complaint in case no. BC286007 ("Bun Boy Case"). On returning Lau's telephone call, Rozsman made an initial settlement offer of $1,500 or $1,600. Rozsman falsely told Lau that if Hawaii Market went to court, it would have to produce four years of business records. He also told her that the settlement amount would increase with every passing day.

Rozsman telephoned Lau a second time and made a new settlement offer of $800 or $900. Rozsman and Lau continued settlement discussions until Rozsman made a settlement offer of $550.

On December 3, 2002, Rozsman faxed Lau a settlement package which contained false and/or misleading statements. Pursuant to Rozsman's instructions, that same day Lau faxed Rozsman a copy of the signed settlement agreement and a copy of Hawaii Market's settlement check which was payable to both Respondents and HHB in the amount of $550. Respondents deposited the Hawaii Market settlement check into Trevor Law Group's Wells Fargo client trust account no. 3821161340 ("CTA No. 382") on December 6, 2002.

On December 12, 2002, Lau received a copy of a complaint filed in case no. BC286891 ("Blue Banana Case") in which Hawaii Market was named as a defendant. The allegations against Hawaii Market in the Blue Banana and Bun Boy cases were identical. When Lau asked Rozsman why Hawaii Market was being sued again, he said that the Bun Boy Case had been

dismissed and that the Blue Banana Case was a different matter involving a bigger corporation and that it was a bigger case. He also said that Hawaii Market would have to pay more than $550 to settle the Blue Banana Case. Rozsman made a settlement offer of $800 or $900.

Lau asked Rozsman to return the previous payment of $550 since the Bun Boy Case had been dismissed. Although Rozsman initially declined Lau's request to return the $550, suggesting instead that it be applied towards settlement of the Blue Banana Case, he then agreed to return the funds and did so in or about December 2002.

Between December 12 and 30, 2002, Rozsman continued settlement negotiations and eventually agreed to settle for $750 in the Blue Banana Case. Instead of paying the $750, on December 30, 2002, Hawaii Market retained counsel in the Blue Banana Case. Lau did not inform Rozsman that counsel had been retained. Approximately two weeks later, Rozsman telephoned Lau and lowered the settlement offer to $650. Lau told Rozsman that she had not obtained approval to settle the case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing the Bun Boy Case without conducting a reasonable inquiry or investigation of the allegations against Hawaii Market and without HHB's knowledge or consent and by filing the Blue Banana Case against Hawaii Market after settling the identical allegations in the Bun Boy Case, Respondents failed to maintain actions or proceedings as only appear just in violation of section 6068(c) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By maintaining Hawaii Market as a defendant in the Blue Banana Case and demanding additional settlement funds, Respondents maintained an action from a corrupt motive of passion or interest in violation of 6068(g) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By faxing Lau a settlement package that contained false and/or misleading statements and by obtaining settlement funds in the Bun Boy Case without the knowledge of HHB and concealing those funds, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(3) Eva Antojitos Restaurant

On November 26, 2002, Respondents filed case no. BC286009 ("HHB v. Blue Banana Case"), which named Eva Antojitos Restaurant ("Eva Antojitos") as a defendant.

On December 2, 2002, Julio Martinez ("Martinez") telephoned Respondents on behalf of Eva Antojitos and spoke with a Respondents representative who made a $1,600 settlement offer. Martinez said he could only pay $800. Respondents told Martinez that he would call back and, when he did about 15 minutes later, he made a $900 settlement offer. When Martinez asked if the settlement would protect Eva Antojitos from further lawsuits, Respondents agreed.

The next day, Martinez's sister Cecilia Martinez-Magaña received settlement documents in the mail, signed and mailed them along with a check payable to Respondents in the amount of $900. On December 6, 2002, Respondents deposited the check into one of their CTAs.

In December 2002, Respondents sued Eva Antojitos in the Blue Banana Case for the same violations alleged in the HHB v. Blue Banana Case. Martinez repeatedly telephoned Respondents and left messages inquiring about the Blue Banana Case. No one from Respondents returned his telephone calls. Eva Antojitos subsequently retained counsel for the Blue Banana Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing the HHB v. Blue Banana Case without conducting a reasonable inquiry or investigation of the allegations against Eva Antojitos and without HHB's knowledge or consent and by filing the Blue Banana Case against Eva Antojitos after settling the HHB v. Blue Banana

Case, Respondents failed to maintain actions or proceedings as only appear just, in violation of section 6068(c) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By maintaining Eva Antojitos Restaurant as a defendant in the Blue Banana Case, Respondents continued an action from a corrupt motive of passion or interest in violation of 6068(g) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By sending a settlement package that contained false or misleading statements, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds the HHB v. Blue Banana Case without HHB's knowledge and consent and by concealing those funds, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(4) La Guadalupana Bakery

On December 4, 2002, 76-year-old business owner Alfredo Hernandez ("Hernandez") received a copy of the complaint in the HHB v. Blue Banana Case which named his business, La Guadalupana Bakery, as a defendant. When Hernandez telephoned Respondents to inquire about the lawsuit, a Trevor Law Group representative told him that he could come to Respondents' office and pay $900 to settle it.

At a December 9, 2002, meeting at the Trevor Law Group office, Hernandez met with a young man and female Spanish language interpreter. The interpreter told Hernandez that if he paid $900, Respondents would take care of all court matters regarding the lawsuit. Hernandez then issued a check payable to Respondents in the amount of $900 as full settlement of the HHB v. Blue Banana Case.

On December 12, 2002, Hernandez received a copy of the complaint in the Blue Banana Case which named La Guadalupana Bakery as a defendant and alleged the same violations as had

been resolved in the HHB v. Blue Banana Case. Hernandez retained counsel to represent his business in the Blue Banana Case.

On January 7, 2003, after they had dismissed the HHB Case and filed the Blue Banana Case against La Guadalupana Bakery, Respondents deposited Hernandez's settlement check into Trevor Law Group's Wells Fargo Bank client trust account no. 5725117625 ("CTA No. 572").

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing the HHB v. Blue Banana Case without conducting a reasonable inquiry or investigation of the allegations against La Guadalupana Bakery and without HHB's knowledge or consent and by filing the Blue Banana Case against La Guadalupana Bakery after settling the HHB v. Blue Banana Case, Respondents failed to maintain actions or proceedings as only appear just in violation of section 6068(c) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By maintaining La Guadalupana Bakery as a defendant in the Blue Banana Case, Respondents continued an action from a corrupt motive of passion or interest, in violation of 6068(g) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds on the HHB v. Blue Banana Case without the knowledge of HHB and by concealing those funds, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

The Court finds that there is a reasonable probability that the State Bar will not prevail as to the following charges pursuant to section 6007(c)(2)(C):

By sending a settlement package that contained false or misleading statements, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(5) Q Snack Shop

Respondents filed case no. BC286006 ("ONJ Coffee Case") in which Q Snack Shop was named as a defendant.

On December 2, 2002, attorney Sung Bae Park ("Park") telephoned Respondents about the ONJ Coffee Case. He and Rozsman negotiated a settlement of $860 for Q Snack Shop. Q Snack Shop owner Soo Il Kim ("Kim") issued a check payable to both Respondents and CEW, in the amount of $860 as settlement of the ONJ Coffee Case.

On December 12, 2002, Respondents filed the Blue Banana Case which named Q Snack Shop as a defendant. Park asked Rozsman why Respondents were suing Q Snack Shop again. Rozsman told Park that HHB had withdrawn from the lawsuit and a new plaintiff decided to file in its place. Rozsman requested more money from Q Snack Shop to settle the Blue Banana Case. Park told Rozsman that if Respondents would not accept the previously agreed upon $860 settlement, Q Snack Shop would probably contest the matter. Rozsman told Park that he would call him back with a settlement amount. A few days later, Rozsman told Park that the new plaintiff was willing to accept the previously negotiated $860 settlement offer. Rozsman agreed to discard the previous settlement check. On January 10, 2003, Park sent a new settlement check, payable to both Respondents and CEW, in the amount of $860 which Respondents deposited into CTA No. 572.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing the ONJ Coffee Case without conducting a reasonable inquiry or investigation of the allegations against Q Snack Shop and without HHB's knowledge or consent and by filing the Blue Banana Case against Q Snack Shop after settling the HHB v. Blue Banana Case, Respondents failed to maintain actions or proceedings as only appear just, in violation of section 6068(c), and committed acts involving moral turpitude, dishonesty or corruption in violation of

section 6106;

By maintaining Q Snack Shop as a defendant in the Blue Banana Case and demanding additional settlement funds, Respondents continued an action from a corrupt motive of passion or interest in violation of 6068(g) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds on the ONJ Coffee Case without the knowledge of HHB and by concealing those funds, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(6) Pioneer Chicken

In December 2002, Kye Soon Chung ("Chung") learned that Respondents had sued his daughter's restaurant, Pioneer Chicken. Chung telephoned Respondents and spoke to Respondent Han in Korean. Chung explained to Respondent Han that his daughter had no money to pay or hire an attorney. Chung explained that his daughter had recently given birth to three babies by Caesarian section and was experiencing health problems.

Respondent Han told Chung that he would get rid of the stress on his daughter by paying $1,250 to settle the lawsuit. Chung asked Respondent Han to explain the basis of the lawsuit. Respondent Han said that Pioneer Chicken was just one of a number of businesses being sued due to a violation. Chung asked Respondent Han what the violation was against Pioneer Chicken but Respondent Han did not know. Chung told Han that he could pay $250 or $300 but if the settlement was more than $700, Chung would join with other Korean businesses and pay their attorney to sue Respondents. Respondent Han told Chung that he would call back after talking with another attorney at Respondents.

Approximately 20 - 30 minutes later, Respondent Han telephoned Chung and made an offer of $500. Chung pleaded with Respondent Han to lower the settlement offer and to help him protect his daughter's health. Respondent Han told Chung that if he wanted to relieve his daughter's stress he would have to pay $500. On January 13, 2003, Chung issued a check

payable to Respondents, in the amount of $500, as settlement for the Blue Banana Case. On January 15, 2003, Respondents deposited Chung's check into CTA No. 572.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges

By filing against Pioneer Chicken without conducting a reasonable inquiry or investigation of the allegations and without HHB's knowledge or consent, Respondents failed to maintain actions or proceedings as only appear just in violation of section 6068(c) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds on behalf of a shell corporation, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(7) Z Sushi California Cuisine

On November 28, 2002, Judy Tu ("Tu") received a copy of the complaint in the HHB v. Blue Banana Case which named her business, Z Sushi California Cuisine ("Z Sushi") as a defendant. On December 3, 2002, Tu advised Rozsman that the violations alleged against Z Sushi were minor. Rozsman told Tu that Respondents did not go after restaurants with minor violations and that Tu should consider settling the lawsuit. Rozsman told Tu that settling the lawsuit involved paying basic legal costs. Rozsman told Tu that if she settled the lawsuit, Z Sushi would not be sued for the next four years. Rozsman told Tu that she could settle the case for $950 but that the settlement offer would increase to $1,470 by the following Friday and continue to increase with each passing week.

Respondents then mailed Tu a settlement agreement. On December 23, 2002, Tu heard reports on the radio that the HHB v. Blue Banana Case had been dismissed. From December 23 to 28, 2002, Tu left three telephone messages for Respondents inquiring whether the case had been dismissed. No one returned her calls. Tu telephoned HHB and inquired about the lawsuit. A representative from HHB informed Tu that HHB had terminated the services of Respondents.

Tu then telephoned HHB's attorney who told her that the lawsuit had been dismissed.

On December 25, 2002, Tu received a copy of the complaint in the Blue Banana Case, which named Z Sushi as a defendant. Tu retained counsel, Milton Grimes ("Grimes"). On December 30, 2002, Respondent Hendrickson telephoned Tu. Respondent Hendrickson told Tu that he obtained her name from other people and from media reports. Respondent Hendrickson asked Tu how she had organized the Southern California Small Business League and asked about a town hall meeting that was scheduled on January 2, 2003, in El Monte, California. Tu told Respondent Hendrickson that she was represented by counsel. Respondent Hendrickson continued to ask Tu questions about the Southern California Business League and why the restaurant defendants were organizing. Tu repeatedly told Respondent Hendrickson that she was represented by counsel and that he should contact her counsel with questions. In response, Respondent Hendrickson asked Tu if she had learned that on television. Respondent Hendrickson then began asking Tu questions about Milton Grimes and how she had gotten Grimes to represent her. Thereafter, Respondent Hendrickson abruptly terminated the telephone call with Tu.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By filing suit against Z Sushi without conducting a reasonable inquiry or investigation of the allegations and without the consent or authorization of HHB, Respondents failed to maintain actions or proceedings as only appear just, in violation of section 6068(c), and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By maintaining Z Sushi as a defendant in the Blue Banana Case from the motive of generating attorneys fees, Respondents commenced and maintained an action from a corrupt motive of passion or interest, in violation of 6068(g) and committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By contacting Tu knowing that she was represented by counsel, Respondents communicated with party in violation of rule 2-100(A).

The Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charges pursuant to section 6007(c)(2)(C):

By sending a settlement package which contained false or misleading statements, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

3. MISJOINDER, MISCONDUCT RELATING TO OTHER COUNSEL AND RELATED ISSUES

a. Joinder and Notice Requirements

Pursuant to CCP section 379(a) defendants may be joined in a single lawsuit if: "(1) Any right to relief jointly, severally, or in the alternative, in respect of arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action; or (2) A claim, right, or interest adverse to them in the property or the controversy which is the subject of the action."

CCP section 1014 requires parties to provide notice to a defendant who has appeared in an action or his or her counsel of all subsequent proceedings in which notice is required to be given. A defendant is deemed to have appeared in an action when he or she answers, demurs, gives the plaintiff written notice of appearance or an attorney gives notice of appearance for the defendant, among other things.

As noted above, by his order dated April 1, 2003, Judge Carl J. West dismissed all of the approximately 2,000 auto shop cases, some of which are the subject of the instant Application. The grounds for this dismissal were several; however, one of the grounds cited for Judge West's decision was the misjoinder of the defendants. Judge West found that nothing in these cases linked the defendants together, except that they may have committed similar violations of law in the operations of their businesses. No conspiracy among defendants was alleged. In fact, the

opposite was true. There was evidence that, by design of Respondents, most of the defendants had no knowledge of whom the other defendants were. The judge also found that there was no common property interest in dispute so as to justify joinder. As such, Judge West ordered dismissal of all of the cases.

The alleged misconduct in the joinder area involved Respondents' relationships with various other attorneys defending the UCL cases. As such, these issues will be organized by the attorney involved.

b. Ed Sybesma

(1) The Orange County Case

The original complaint in the 7 Day Tire Case named only one defendant, Bridgestone Firestone Retail Commercial Operations ("BFS") and 30,000 "Doe" defendants.[24] The same day the complaint was filed, April 11, 2002, Respondents filed 98 "Doe" amendments. On June 11, 2002, Respondents filed an amended complaint. On June 26, 2002, they filed an additional 25 "Doe" amendments. The only thing in common among the defendants was that they were all being sued for alleged failures to comply with one or more regulations pertaining to auto repair shops claimed to be unfair business practices in violation of the UCL.

In the 7 Day Tire Case, attorney Ed Sybesma ("Sybesma"), of Rutan & Tucker, LLP, represented BFS and, later, one other defendant.

On April 24, 2002, Sybesma sent a letter to Respondent Hendrickson seeking dismissal of the lawsuit against BFS or, in the alternative, evidence demonstrating that Respondents were not in violation of CCP section 128.7 or RPC 3-200.

On April 30, 2002, attorney Karen Walter ("Walter"), also of Rutan & Tucker, LLP, called Respondent Hendrickson about the 7 Day Tire Case. He was not in so she spoke with Respondent Han instead. He told Walters that he was an attorney working on the 7 Day Tire

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[24] *CEW v. 7-Days Tire Muffler and Auto Repair, et al*, Orange County Superior Court case no. 02CC05533.

Case.[25] Walters told him that Rutan & Tucker would file an ex parte application to shorten time for briefing and hearing on a demurrer by BFS. Respondent Han told Walters that CEW would oppose the ex parte application.

On May 3, 2002, the Court granted Sybesma's ex parte application for order shortening time for briefing and hearing on BFS' demurrer.

On May 6 - 7, 2002, Respondents prepared discovery to be served on BFS and served it directly on BFS. BFS gave Sybesma the discovery on May 8, 2002.

That same day, Respondents and Sybesma appeared for CEW's ex parte application for reconsideration of the May 3 order, which was denied. Sybesma requested the names of all served defendants so that he could advise them that they need not file a responsive pleading to the complaint while his demurrer was pending. Respondent Hendrickson indicated that there would be no problem providing such a list to Sybesma.

On May 10, 2002, the Court sustained BFS' demurrer and ruled that complaint was defective on the following grounds: (1) CEW's lack of capacity to sue as currently pled in the complaint, (2) CEW's failure to state facts sufficient to state a cause of action, and (3) CEW's failure to state specific facts sufficient to establish proper joinder and a sufficient nexus for suing hundreds or thousands of defendants in the 7 Day Tire Case. The court granted CEW 30 days leave to amend the lawsuit. The court also made the following orders: (1) that Respondents and CEW shall deliver to counsel for defendant BFS, not later than the close of business on Tuesday, May 14, 2002, a list of names, addresses, and other available contact information for all of the defendants served to date by CEW in the 7 Day Tire lawsuit so that BFS could give notice of the Court's May 10, 2002 ruling to all defendants; and (2) that all discovery in this matter shall be and is hereby suspended until such time as CEW has been able to file a complaint which is no longer subject to attack by demurrer. Respondent Hendrickson appeared for Respondents that day. Later that day, Sybesma faxed him a notice of ruling regarding the May 10 orders.

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[25]Respondent Han was not admitted in California until June of that year.

On May 14, 2002, Sybesma telephoned Respondent Hendrickson and left a message inquiring about the list of served defendants. Respondent Hendrickson returned Sybesma's telephone call at 5:36 p.m. and left a message stating that he disagreed with the language in the notice of ruling and was not providing the information.

The next day, Sybesma faxed Respondent Hendrickson two letters demanding that Respondents produce the information as ordered by the court. Around this time, Sybesma learned from attorneys Robert Bills and David Calderon that Respondents were continuing to propound discovery on other parties despite the court's May 10 orders

Sybesma's ex parte application for clarification of the May 10 orders was heard on May 20, 2002. Respondent Hendrickson and Sybesma were present when the court again ordered that all discovery was to be stayed until Respondents filed a pleading that could withstand a demurrer and that no defendants would be required to respond until further order of the court. The court also threatened to hold Respondent Hendrickson in jail for five days for contempt if he did not provide Sybesma with a list of all served defendants by the end of the day. (Request for Judicial Notice No. 39.)

On June 10, 2002, Respondents filed an amended complaint in the 7 Day Tire Case. Upon receiving the amended complaint in the 7 Day Tire Case, Sybesma informed Respondents that he intended to demurrer on the basis of misjoinder. On June 12, 2002, Respondents dismissed BFS from the 7 Day Tire case. Just days prior to dismissing BFS from the 7 Day Tire Case, Respondents filed a different lawsuit against BFS in Los Angeles County.[26]

Respondents intentionally dismissed BFS from the 7 Day Tire case because they did not want a pending demurrer in the case, which because of earlier orders of the trial judge, would have had the effect of allowing other defendants to hold off filing their responsive pleadings.

As is noted below, Respondents repeatedly dismissed demurring defendants from their

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[26] *CEW v. Firestone Tire & Service Center*, Los Angeles County Case No. BC275338 ("Los Angeles BFS Case"), filed June 7, 2002.

respective lawsuits, in order to avoid an adverse ruling on the misjoinder issue and to lift any stays on pleadings or discovery.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges

By making misrepresentations to Walters that he was an attorney working on the 7 Day Tire Case, Respondent Han unlawfully held himself out to be an attorney licensed to practice in the State of California in violation of 6068(a), 6125 and 6126 and committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106;

By relying on Respondent Han to communicate with Walters regarding the 7 Day Tire Case knowing that he was not licensed to practice law in California, Respondents Trevor and Hendrickson aided and abetted the unauthorized practice of law in violation of rule 1-300(A) and committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106;

By violating the court's May 10, 2003, order, conducting discovery on other defendants, failing to provide Sybesma with a list of served defendants in order to prevent him from giving notice to the defendants of the May 10 order, dismissing BFS in order to prevent an adverse ruling and to lift the stay on discovery in the 7 Day Tire case and engaging in these actions in furtherance of a scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) <u>The Los Angeles County Case</u>

The complaint in the Los Angeles BFS Case named 30,000 "Doe" defendants. Three of the defendants were independently owned and operated Firestone Tire & Service Centers.

On July 10, 2002, Sybesma propounded discovery on CEW in order to learn the factual basis for the Los Angeles BFS Case. On July 22, 2002, Sybesma filed a demurrer and motion to strike. On August 14, 2002, Sybesma received CEW's responses which failed to provide any

factual basis for the lawsuit.

On September 17, 2002, Respondents failed to appear for the hearing on Sybesma's demurrer. The court sustained the demurrer with leave to amend and ruled that the complaint

> "does not contain sufficient facts to apprize demurring defendants of what they have allegedly done wrong. Plaintiff alleges the legal conclusion that all defendants failed to properly record labor and parts on invoices and work orders and lists five instances of defendant Firestone Tire & Service Center failing to provide estimates for unspecified customers or jobs at five different locations. The complaint does not provide a factual basis for liability against any of the demurring defendants."

On September 20, 2002, Sybesma filed a motion to compel further discovery responses.

On September 27, 2002, Respondents filed an amended complaint which did not include additional allegations of wrongdoing by BFS. On October 21, 2002, the court granted Sybesma's motion to compel and ordered further responses from CEW.

Sybesma filed a demurrer to the amended complaint on October 23, 2002. On November 11, 2002, Sybesma's secretary Claudia Burton ("Burton") asked Respondent Trevor for copies of Respondents' opposition papers. He told Burton that he would fax the opposition that day. On November 15, 2002, Respondents filed an untimely opposition to demurrer. Respondent Trevor falsely stated in the opposition papers that he was unaware of the overdue opposition until November 14, 2002.

On November 15, 2002, Sybesma received CEW's supplemental responses to discovery. The responses revealed that the allegations against BFS were based on limited information posted by the Bureau. On November 18, 2002, the court sustained the demurrer to the amended complaint with leave to amend.

On November 27, 2002, Respondents filed a second amended complaint. Sybesma propounded further discovery including demands for documents containing: (1) the factual basis

for CEW's allegations, if any; (2) the qualifications of CEW and/or its attorneys to prosecute this action on behalf of the general public, if any; and (3) a description of legitimate business purposes of CEW, if any. In response, CEW produced five pages of printouts from the Bureau website. Sybesma filed a demurrer to the second amended complaint.

On January 7, 2003, Respondent Trevor sent Sybesma's office a letter stating Respondents would dismiss the case if the parties agreed to waive costs. Sybesma rejected this offer. Prior to the hearing on the demurrer to the second amended complaint, Respondents dismissed the Los Angeles BFS case against BFS.

Sybesma filed a memorandum of costs incurred by the three Firestone Tire Centers. Respondent filed a motion to tax costs, which was pending before Judge Carl West.

Judge West appointed Sybesma, Kathleen Jacobs and Jonathan Gabriel as liaison defense counsel in approximately nine UCL lawsuits filed by Respondents in Los Angeles County. Judge West scheduled an Order to Show Cause hearing on March 28, 2003, as to why the nine UCL lawsuits should not be dismissed and stayed all further proceedings until after the hearing. As noted above, at this hearing, Judge West dismissed all these cases.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges

The charges that Respondents violated sections 6068(c) and 6106 regarding the failure to investigate allegations have been addressed *supra* at section IV.1.d.(3).

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By dismissing BFS from the Los Angeles lawsuit in order to avoid an adverse ruling, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

///

(3) Rozsman Representing Himself as Attorney

On November 5, 2002, Sybesma appeared in court on behalf of defendant N&J Radiator & Air Conditioning dba A1 Radiator Service ("A1 Radiator Service") in the Amigo Auto Case. On November 20, 2002, A1 Radiator Service notified Sybesma that Rozsman had telephoned and represented himself as an attorney for Respondents. On November 21, 2002, Sybesma faxed Respondents a letter requesting them to stop contacting his clients directly.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By allowing Rozsman to represent himself as a Respondents attorney, Respondents aided and abetted the unauthorized practice of law in violation of rule 1-300(A), and committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

(4) Petition for Coordination

On February 14, 2003, Sybesma received from Respondents a notice of submission for petition of coordination requesting that all of Respondents's UCL lawsuits in Los Angeles, Orange and Sacramento counties be coordinated before one court.

On February 18, 2003, Respondents falsely represented to Judge Selna that they had filed the petition for coordination with the Judicial Council on February 12, 2003, although, in reality, it was not filed until February 24, 2004. Due to Respondents's false representation, Judge Selna stayed all further proceedings in his court pending action on the petition.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By misrepresenting to the court the status of the petition for coordination in order to obtain a stay of the proceedings, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

c. David Calderon

Attorney David Calderon ("Calderon") represented defendant Integrity Automotive in the 7 Day Tire Case. Calderon attended the May 10, 2002, hearing on BFS' demurrer.

On May 14, 2003, Respondent Trevor contacted Calderon and attempted to settle the lawsuit against Integrity Automotive. Respondent Trevor knowingly made a false statement to Calderon by telling Calderon that the Court's May 10 ruling did not apply to defendants other than BFS.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By misrepresenting to Calderon that the May 10 ruling did not apply to his client, Respondents committed an act or moral turpitude, dishonesty or corruption in violation of section 6106.

d. Robert Bills

(1) Failure to Notify Bills of Proceedings

On April 19, 2002, Bills sent Respondent Hendrickson a letter stating that he represented Jeeps R Us and requesting copies of all "Doe" amendments filed to date as well as any other documents filed with the court or any other party. In response, on April 24, 2002, Respondent Hendrickson sent Bills a letter stating that he could purchase such pleadings and documents from the court clerk.

Bills continued to telephone Respondent Hendrickson from April 24, 2002, through May 7, 2002, and left messages requesting a return telephone call.

Despite knowing Bills represented Jeeps R Us, Respondents did not notify Bills about Sybesma's ex parte application or provide Bills with any pleadings or documents filed with the court. Instead, on May 7, 2002, Respondents sent a proposed judgment and permanent injunction directly to Jeeps R Us.

Moreover, on May 13, 2002, Respondents propounded discovery on Jeeps R Us demanding production of the last four years of business records, in direct violation of the court's May 10 order staying discovery. Respondents did not notify Bills of the court's May 10, 2002, order or of BFS' demurrer.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By sending documents directly to Jeeps R Us, knowing it was represented by counsel, Respondents communicated with a represented party in violation of rule 2-100(A);

By refusing to provide Bills with copies of pleadings and notices and not notifying him of the court's order and hearings, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) Settlement Tactics and Bills' Demurrer in the 7 Day Tire Case

On May 16, 2002, Respondent Trevor telephoned Bills and made a $2,500 settlement offer. Bills asked Respondent Trevor to explain the factual basis for the lawsuit against Jeeps R Us. Respondent Trevor did not do so but told Bills that the lawsuit was based on the notice of violations posted on the Bureau website.

After Respondents filed the amended complaint in the 7 Day Tire case, Bills filed a demurrer on the grounds of misjoinder and noticed a hearing date of August 2, 2002. On June 9, 2002, Respondent Han faxed Bills a letter stating that Respondents were "confident about successfully opposing" the issue of misjoinder but suggested dismissing Jeeps R Us from the case to "eliminate the need to argue the issue of misjoinder." Respondent Han also faxed a stipulation for dismissal and re-filing against Jeeps R Us. Bills rejected the stipulation.

On July 10, 2002, Bills heard from another attorney that Respondents were dismissing Jeeps R Us from the 7 Day Tire Case. Bills telephoned Respondent Trevor that same day and left a message inquiring about the dismissal. He also faxed a letter to Respondents about it.

On July 11, 2002, Bills contacted the court clerk and confirmed that the hearing on his demurrer was still scheduled for August 2, 2002. On July 12, 2002, Respondents filed a request for dismissal of Jeeps R Us from the 7 Day Tire Case. Respondents never informed or served Bills with a request for dismissal. On July 22, 2002, Bills went to the courthouse and obtained a copy of the request for dismissal.

Unbeknownst to Bills, on August 28, 2002, Respondents filed a new UCL lawsuit against Jeeps R Us, case no. 02CC00256 ("Jeeps R Us Case"). On October 9, 2002, Jeeps R Us informed Bills that Respondents law clerk Negin Salimipour ("Salimipour") had called to say that Jeeps R Us was in default and a judgment would be entered against them but that they could settle the lawsuit.

Bills then spoke to Salimipour and informed her that the lawsuit against Jeeps R Us had been dismissed. Salimipour told Bills that she had meant to call another defendant, Jeff's Service Center, instead of Jeeps R Us.

On November 4, 2002, Respondents called Bills and asked if he would accept service of a complaint on behalf of Jeeps R Us. Bills told the caller that the lawsuit against Jeeps R Us had been dismissed but the caller informed him that a new lawsuit had been filed against Jeeps R Us. On November 9, 2002, Bills received a summons and complaint in the Jeeps R Us Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c) and 6106 regarding the failure to investigate allegations have been addressed *supra* at section IV.1.d.(3).

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By dismissing Jeeps R Us from the 7 Day Tire Case in order to avoid an adverse ruling and failing to notify Bills of the dismissal, Respondents committed acts involving moral

turpitude, dishonesty or corruption in violation of section 6106.

(3) Discovery Stay in the Jeeps R Us Case

In late November through early January, Bills and Respondent Trevor had discussions regarding Trevor's assertion that a discovery stay was in effect. The parties resolved that dispute with Trevor agreeing that no such stay was in effect. Bills then propounded discovery.

On January 6, 2003, Respondent Hendrickson inquired of Bills whether he intended to appear the next day for a hearing in the 7 Day Tire Case. Bills asked Respondent Hendrickson whether there were any orders being sought that affected Jeeps R Us. Respondent Hendrickson assured Bills that there were no matters pending in the 7 Day Tire Case that affected Jeeps R Us and that there would be no orders sought affecting Jeeps R Us. Based on Respondent Hendrickson's representation, Bills did not attend the January 7, 2003, hearing in the 7 Day Tire Case.

On January 7, 2003, Respondents appeared in the 7 Day Tire Case and requested a stay on all discovery, including in the Jeeps R Us Case. The court granted the stay pending an evaluation conference scheduled for February 28, 2003. Respondent Hendrickson never informed the court of his conversation with Bills the day before.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false statements and misleading Bills about the nature of the January 7, 2003, hearing in the 7 Day Tire Case, obtaining a stay on discovery to avoid providing responses to Bills, failing to inform the court of Respondent Hendrickson's communications with Bills on January 6, 2003, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(4) Other Misrepresentations

On January 9, 2003, the parties in the Jeeps respondent Us case appeared before Judge

Selna who ordered them to discuss the possibility of selecting "test cases" to take to trial.

On January 28, 2003, Bills and Respondents appeared for a motion to strike portions of the complaint in the Jeeps R Us Case. The court struck portions of the complaint, including allegations of false advertising against Jeeps R Us and prayers for restitution and disgorgement. Respondents were granted 20 days leave to amend to allege particular facts constituting false advertising and the particular non-parties to whom CEW alleged restitution was owed.

On January 28, 2003, Respondent Han inquired further about the test case concept with Judge Selna. Judge Selna told Respondent Han that it was premature to proffer a list of suggested test cases before the parties engaged in a meet and confer.

On Friday, February 7, 2003, Bills received a letter from Respondent Han stating that CEW had selected five defendants, including Jeeps R Us, to take to trial within 120 days. Respondent Han's letter stated that Judge Selna had suggested this approach and that if Bills did not respond by Monday, February 10, 2003, Respondents would infer Bills' acceptance of the proposal.

On February 7, 2003, Bills faxed Respondents a letter advising that Judge Selna had previously told Respondents that it was premature to offer a list of suggested test cases. Bills further stated in his letter that, at the next status conference, he would request an evidentiary hearing to determine whether CEW is qualified to sue on behalf of the general public.

Before the next hearing, on February 14, 2003, Respondents sent Bills notice that Respondents had requested a stay on all proceedings pending resolution of the petition for coordination. That day, Bills faxed and mailed Respondents a request for copies of the petition for coordination and supporting documents.

On February 18, 2003, Respondents appeared before Judge Selna and obtained an indeterminate stay on all proceedings before him. Respondents falsely represented to Judge Selna that they had filed the petition for coordination with the Judicial Counsel on February 12, 2003. Respondents never gave Bills notice of the February 18 hearing.

Despite the indeterminate stay, on February 19, 2003, Bills received service of an amended complaint in the Jeeps R Us Case.

On February 21, 2003, Bills received a call from Respondents' employee Sofia Perez ("Perez") who asked him if he would accept service of the requested documents pertaining to the petition for coordination by email. Bills rejected email service and told Perez that he expected service as provided by the CCP.

On February 25, 2003, Bills faxed another request for a copy of the petition for coordination and supporting documents. On February 28, 2003, Bills received documents from Respondents which did not bear a file stamp or case number and which were missing pages.

On March 3, 2003, Bills sent Respondents a fax requesting the missing pages and inquiring whether the petition for coordination had actually been filed and accepted by the Judicial Council. On March 5, 2003, Bills sent Respondents another fax requesting a conformed copy of the face page of the petition and the missing pages. Respondents have not given Bills the missing pages.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By misrepresenting the status of the petition for coordination in order to obtain a stay on the Jeeps R Us Case and to avoid an adverse ruling, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

e. <u>Kathleen Jacobs</u>

Defense counsel Kathleen Jacobs ("Jacobs") from Jacobs & Gregory represented defendants in the 7 Day Tire case. Jacobs appeared as counsel in the case at the May 20, 2002, hearing with Sybesma.

On July 9, 2002, one of Jacobs' clients told her that Respondents had contacted him about responding to the lawsuit. In response, Jacobs sent a letter to Respondents Trevor and

Hendrickson advising them that, due to the demurrer filed by Jeeps R Us in the 7 Day Tire Case, no parties need respond to the amended complaint until such time as the complaint survives the demurrer. Jacobs' letter further stated that if Respondents dismissed Jeeps R Us from the 7 Day Tire Case as they did BFS, she would file a similar demurrer on behalf of her client.

(1) Custom Motors

Respondents dismissed Jeeps R Us from the 7 Day Tire Case on July 12, 2002. They did not notify Jacobs of the request for dismissal. On July 15, 2002, after learning of the dismissal of Jeeps R Us, Jacobs filed a demurrer on behalf of defendant Custom Motors on the grounds of misjoinder. Defendant Los Amigos Auto Repair also filed a demurrer in the 7 Day Tire case.

On July 16, 2002, Respondent Hendrickson sent out a letter advising defendant Sunny Hill Auto Center that its answer to the amended complaint was due that day. This was in contravention of the court's May 10 and 20 orders. Respondent Hendrickson's letter further stated that CEW authorized a one-week continuance only if Sunny Hill Auto Center filed an answer as opposed to a demurrer or other pleading.

On July 18, 2002, after learning of the letter to Sunny Hill Auto Center, Jacobs wrote a letter to Respondents Trevor and Hendrickson advising that there were two pending demurrers in the 7 Day Tire Case and that no other defendant need respond to the amended complaint while a demurrer was pending. Jacobs' letter also advised them that if they dismissed her client Custom Motors before the hearing on demurrer, she would file another demurrer on behalf of another client in the case.

In July 2002, Respondents sent Jacobs a settlement package for Custom Motors. The settlement package contained false or misleading statements regarding the collateral estoppel or res judicata effect of settlement. Jacobs sent Respondents Han and Hendrickson a letter requesting authority for their assertions regarding res judicata and collateral estoppel.

On August 1, 2002, Jacobs received copies of requests for entries of default from Respondents against some of her clients. She sent a letter to Respondents Hendrickson and

Trevor advising them that there were two demurrers pending in the 7 Day Tire Case.

On August 8, 2002, Jacobs discovered that Respondents had dismissed Custom Motors from the 7 Day Tire Case without giving her notice of the dismissal.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By dismissing Custom Motors from the 7 Day Tire Case in order to avoid an adverse ruling, failing to notify Jacobs of dismissals of demurring defendants and sending letters containing false or misleading statements in furtherance of a scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(2) Rose Auto Repair

On August 12, 2002, Jacobs filed a demurrer in the 7 Day Tire Case on behalf of her client Rose Auto Repair. On August 13, 2002, she sent Respondents Hendrickson and Trevor a letter that she had filed said demurrer.

On August 29, 2002, Respondents dismissed Rose Auto Repair from the 7 Day Tire Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By dismissing Rose Auto Repair from the 7 Day Tire Case in order to avoid an adverse ruling, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(3) Brea Auto Body

On September 4, 2002, Jacobs filed a demurrer in the 7 Day Tire Case on behalf of her client, Brea Auto Body. Unknown to Jacobs, around this time, the court designated the 7 Tire Case complex and reassigned it to Judge Selna. Respondents prepared a notice of reassignment of the case but did not serve Jacobs with it.

On September 10, 2002, Jacobs' client, Pro Auto Care, received a letter from Respondents which was meant for defendant Japanese Automotive Repairs. The letter was signed by law clerks Salimipour and Josh Thomas and stated that the 7 Day Tire complaint was no longer subject to demurrer and that Japanese Automotive Repairs had until September 16, 2002, to settle the lawsuit. Jacobs sent a letter to Respondents Hendrickson and Respondents that she was in receipt of the letter purportedly sent by Salimipour and Josh Thomas and that its contents were false as Jacobs had filed a demurrer on behalf of Brea Auto Body.

Due to the reassignment of the case to Judge Selna, however, all previously pending matters were off calendar. Since Respondents did not notify Jacobs of the reassignment, she was unaware that there was now no demurrer pending.

On September 23, 2002, Respondents filed entries of default against Jacobs' clients: Europo, Miller Auto Electric, Larry's Independent Auto Service, A&A Auto Center, American Automotive, Aaron's Automotive, Rose Auto Repair and Fiesta Transmission.

On September 24, 2002, after learning of the reassignment, Jacobs filed a demurrer on behalf of her client Fiesta Transmissions.

On October 3, 2002, Jacobs' client Russ Ward Auto Body gave her a copy of a letter signed by law clerk Salimipour. The letter falsely stated that the complaint in the 7 Day Tire Case was not subject to demurrer and that Russ Ward Auto Body had until October 10, 2002, to settle the lawsuit.

On October 29, 2002, Jacobs appeared for the hearing on Fiesta Transmissions' and Brea Auto Body's demurrers and on the demurrer of another defendant, Superior Automotive. Respondents Han and Trevor appeared at the hearing. Judge Selna gave a tentative ruling sustaining the demurrers.

Respondents Han and Trevor argued that Judge Selna could not rule on Superior Automotive's and Brea Auto Body's demurrers because they had been dismissed from the lawsuit. Despite requests from Jacobs and Superior Automotive's counsel to proceed with the

hearing for a ruling on the misjoinder issue, the court deemed the demurrers moot since the parties had been dismissed.

Respondents Han and Trevor also successfully argued that the court could not rule on the Fiesta Transmission's demurrer because Fiesta was in default which had to be set aside first. Respondents Han and Respondents refused to voluntarily set aside the default which would have allowed the court to hear the demurrer.

On November 6, 2002, Jacobs filed a motion to set aside the defaults taken against her clients.

On December 10, 2002, Respondents filed and the court denied an ex parte application seeking severance of the defendants. The court told Respondents that severance would not cure the defect caused by misjoinder.

On January 28, 2003, Judge Selna granted the motion to set aside entry of default against all of Jacobs' clients, deemed Fiesta Transmission's demurrer filed and scheduled a hearing on February 18, 2003. Judge Selna sustained the demurrer without leave to amend on the misjoinder issue. At that time, Respondents falsely advised the court that they had filed a petition for coordination of all their UCL cases in the State of California to be heard before a single judge. Based on this false representation, Judge Selna stayed the automotive UCL cases pending the hearing on the petition for coordination.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

By dismissing Brea Auto Body from the 7 Day Tire Case, failing to notify Jacobs of the reassignment to the complex division, proceeding with entries of default knowing that Jacob was unaware of the case reassignment and refusing to stipulate to vacate entry of default against Fiesta Transmissions in order to avoid an adverse ruling and in furtherance of a scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in

violation of section 6106;

By misrepresenting the status of the petition for coordination in order to obtain a stay of the proceedings after the court had sustained Fiesta Transmission's demurrer without leave to amend, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

(4) Contacting Jacobs' Clients

The evidence shows that Respondents contacted Jacobs' clients, Leo and Sons Garage in case no. BC281694 ("Didea Tony Case"), Arcadia Ultimate Automotive and BNH Auto Center and other defendants, in case no. BC281705 ("A1 Smog & Muffler Case") after knowing that Jacobs represented them.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By knowingly contacting these clients after knowing that Jacobs was counsel of record, Respondents communicated with represented parties, in violation of rule 2-100(A).

f. Machiavelli Chao

On April 18, 2002, attorney Machiavelli Chao ("Chao") received a copy of the lawsuit in the 7 Day Tire case which his client, H.B. Ming's Auto, as a defendant.

On September 30, 2002, Respondents filed a judgment and permanent injunction against H.B. Ming's Auto which did not reflect the agreed upon terms of the settlement, including a four-year injunction period.

On November 11, 2002, Chao received a minute order regarding the 7 Day Tire case regarding an October 1, 2002, hearing of which Chao had not received notice and, therefore, had not appeared. Chao also received a copy of the filed judgment and permanent injunction against H.B. Ming's Auto.

Chao telephoned Respondent Trevor and inquired about the judgment and permanent

injunction. Respondent Trevor said that there was a clerical error and that he would file the proper judgment and permanent injunction with the court.

On November 25, 2002, Chao faxed Respondent Trevor a letter demanding correction of the filed judgment against H.B. Ming's Auto because he had not heard from Respondents. Respondents did not correct the judgment filed against H.B. Ming's Auto.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By sending a settlement package that contained false or misleading statements, Respondents committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106;

By filing a judgment and permanent injunction against H.B. Ming's Auto which falsely reflected the settlement terms and failing to correct it and by not notifying H.B. Ming's Auto of the October 1, 2002, hearing, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By obtaining settlement funds from H.B. Ming's Auto on behalf of a shell corporation and in furtherance of their scheme to defraud, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

g. Rosslyn Stevens Hummer

On September 18, 2002, Respondents filed the Didea Tony Case naming Hornburg Jaguar, Inc. ("Hornburg, Inc.") as a defendant. The complaint alleged that Hornburg, Inc., did not have a valid Bureau license and that it failed to comply with accepted trade standards on August 17, 2000.

In early October 2002, attorney Rosslyn Stevens Hummer ("Hummer"), of Latham & Watkins, received a copy of the complaint from her client, Hornburg Jaguar, which is a different entity from Hornburg, Inc.

On October 21, 2002, Hummer left a message for Respondent Han stating that Respondents sued the wrong defendant.

Since she did not hear from him, Hummer sent Respondent Han a letter with supporting documents explaining that Respondents had sued the wrong defendant. Penegon West, Inc., had acquired Hornburg, Inc., in an asset purchase that closed on April 16, 2001. Penegon West, Inc., had secured all necessary permits and authorizations for activities under the fictitious name Hornburg Jaguar, including a valid Bureau license. Penegon West, Inc., has been lawfully operating as Hornburg Jaguar since April 2001.

Hummer had no response to the letter. On October 31, 2002, she spoke to Respondents law clerk Matt Laviano ("Laviano") and told him that the allegations against Hornburg Jaguar related to a previous owner and Bureau license. Laviano told Hummer that Respondents was suing Hornburg Jaguar under the theory of successor liability, citing *Cortez v. Purolator* as authority. Hummer told Laviano that she was familiar with the case and it did not support a theory of successor liability. He transferred Hummer so she could speak with Respondent Trevor.

Hummer explained to Respondent Trevor that Respondents had sued the wrong entity. Respondent Trevor told Hummer that Respondents had grown from a small to a large law firm in a short period of time and that they knew what they were doing. He then transferred Hummer to speak with Respondent Han.

Hummer discussed the case against Hornburg Jaguar with Respondent Han and the possibility of a demurrer. Respondent Han falsely told Hummer that several defendants in the 7 Day Tire Case had demurred but that Respondents had prevailed on the issue of misjoinder. He transferred her again to Respondent Trevor who reiterated what Respondent Han had stated about misjoinder.

Hummer then reviewed pleadings and demurrers from the 7 Day Tire Case and learned that the court had sustained several demurrers based, in part, on misjoinder and other defects.

On November 8, 2002, Hummer filed a demurrer on behalf of Hornburg Jaguar. Prior to the December 10, 2002, hearing on the demurrer, it was taken off calendar as the Didea Tony Case was designated related to eight other UCL cases filed by Respondents assigned to Judge West.

On January 27, 2003, Hummer appeared at a status conference in which Judge West set the matters for an Order to Show Cause hearing on March 28, 2003, as to why the cases should not be dismissed and sanctions ordered. Several other defendants told the court that they were erroneously sued because they were either the wrong entity or there were no Bureau violations against them. Judge West suggested the parties to meet and resolve those issues without court intervention.

In response to Judge West's comments, Hummer sent another letter to Respondents requesting dismissal of Hornburg Jaguar from the lawsuit. Respondents sent Hummer a settlement demand letter on red paper. Respondents did not dismiss Hornburg Jaguar from the Didea Tony Case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By misrepresenting to Hummer that they had prevailed on the misjoinder issue in the 7 Day Tire Case in order to dissuade Hummer from filing a demurrer, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

h. Joel Voelzke

On September 18, 2002, Respondents filed case no. BC281695 ("VIP Car Wash Case"). Attorney Joel Voelzke ("Voelzke") represented defendant Amax Motor, Inc. ("Amax") in the

lawsuit.

On November 25, 2002, Respondent Trevor sent Voelzke a settlement package containing false or misleading statements and providing for a $2,800 settlement and injunction period of four years.

Conclusions:

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By sending Voelzke a settlement package containing false or misleading statements and by falsely stating the date and method of service of the opposition to the demurrer, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

i. Jonathan Gabriel

(1) Direct Communications With Gabriel's Clients.

On September 18, 2002, Respondents filed case no. BC281696 ("Guzman Carburetor Case"). On November 22, 2002, attorney Jonathan Gabriel ("Gabriel") sent Respondents a letter advising them that he represented six UCL defendants, including Gadwa Presents Captian V's Auto ("Gadwa") who was a named defendant in the Guzman Carburetor Case. On December 2, 2002, Respondents sent documents directly to Gadwa. On December 2, 2002, Gabriel filed a demurrer on behalf of Gadwa.

On September 19, 2002, Respondents filed case no. BC281768 ("AC Auto Service Case"). On November 14, 2002, Gabriel filed a demurrer on behalf of defendant Autoaid & Rescue Mobil Repair & Tow ("Autoaid') and served Respondents. On November 22 and 27, 2002, Respondents sent a pleading and/or discovery responses directly to Autoaid. On December 2, 2002, Respondents served Autoaid directly with an amended notice of case management conference. On December 5, 2002, Respondents served Autoaid directly with two notices of ruling and notice of related cases.

On September 27, 2002, Respondents filed case no. BC282336 ("E Auto Glass Case").

On November 7, 2002, Gabriel filed a demurrer on behalf of Foreign Domestic Auto Body Repair ("Foreign Domestic"), a defendant in the E Auto Glass Case and served Respondents. On November 27, 2002, Respondents mailed a pleading directly to Foreign Domestic. On December 2, 2002, Respondents mailed another pleading directly to Foreign Domestic.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By sending documents directly to Gadwa, Autoaid and Foreign Domestic knowing that each was represented by Gabriel, Respondents communicated with a represented party in violation of rule 2-100(A).

(2) Greystone Café, Inc.

Despite conceding the misjoinder issue and requesting severance of all defendants before Judge Selna on December 10, 2002, Respondents filed case no. BC286891 ("Blue Banana Case") on December 12, 2002 naming approximately 1013 restaurant defendants and 30,000 "Doe" defendants. Gabriel represented defendant Greystone Café, Inc. ("Greystone") in the Blue Banana Case.

On January 21, 2003, Respondent Trevor faxed Gabriel a letter dated January 16, 2003, asking Greystone to produce four years of business records. The letter falsely stated that section 9880 and section 3350 of the California Code of Regulations required Greystone to maintain four years of business records for inspection. The letter also said that Greystone could settle the lawsuit for $2,120 and that in Respondents' experience, similar cases settled for $7,000 to $13,000.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the

failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3);

By falsely stating that Greystone was required to maintain four years of business records for inspection with the intent to pressure settlement and in furtherance of a scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

j. Erica Tabachnick

On September 18, 2002, Respondents filed case no. BC281693 ("Porters Automotive Case"), naming Purrfect Auto Service Store ("Purrfect Auto") as a defendant. The complaint alleged violations occurring before March 2002 and averred that Purrfect Auto had been operating without valid registration since August 31, 2002.

On October 21, 2002, attorney Erica Tabachnick ("Tabachnick") sent a letter to Respondent Han explaining that her client Trimurti Maa, Inc. ("Trimurti") had acquired Purrfect Auto in March 2002 and had obtained a Bureau license bearing an expiration date of March 31, 2003. Tabachnick sent supporting documentation with her letter and also advised that the Bureau records did not show any disciplinary actions or complaints against Purrfect Auto or Trimurti. Tabachnick's letter requested a dismissal of the lawsuit.

Since she did not receive a response to her letter, Tabachnick called Respondents and left several messages for Respondent Han regarding the Porters Automotive Case. Again, since she received no response to her calls, on November 13, 2002, Tabachnick sent a letter to Respondent Trevor referring to her October 21, 2002, letter and requesting contact about the case.

On November 18, 2002, Respondent Trevor telephoned Tabachnick at 6:30 p.m. Tabachnick informed Respondent Trevor that the service on Trimurti was improper and that there was no basis for the allegations in the lawsuit. Respondent Trevor told Tabachnick that her client was strictly liable for the violations and that, if she contested service, Respondents would serve the complaint again.

Respondent Trevor told Tabachnick that he would grant an extension to answer only rather than any other type of response. Respondent Trevor further told Tabachnick that her client would have to pay $25,000 to settle 13 alleged violations.

On November 26, 2002, Tabachnick received a letter from Respondent Trevor formalizing his settlement demand and advising that her client was strictly liable.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By making false or misleading statements to Tabachnick about strict liability, refusing to grant her an extension unless she agreed to answer only and demanding settlement on behalf of a shell corporation, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

k. Leonard Nasatir

On September 19, 2002, Respondents filed case no. BC281768 ("A.C. Auto Case") naming B&M Truck Body Repair ("B&M") as a defendant.

On October 25, 2002, attorney Leonard Nasatir ("Nasatir") sent Respondent Han a letter explaining that the Bureau had already informed B&M that it was not subject to the Automotive Repair Act and, thus, did not need to be licensed or registered with the Bureau. There was no response to Nasatir's letter.

On January 14, 2003, Respondent Trevor sent Nasatir a letter stating that the proceedings against B&M had been stayed until further order of the court and asked Nasatir to advise B&M

that, in addition to attorney fees and costs, the UCL provided for restitution to be awarded to CEW. The letter also asked that B&M voluntarily meet with Respondents and produce business records for the past four years. Nasatir sent Respondents Trevor and Han a letter in response again stating that B&M was not within the ambit of the Automotive Repair Act and requesting dismissal unless they had evidence suggesting that B&M was required to be licensed by the Bureau. There was no response to Nasatir's letter. Respondents have not dismissed B&M from case.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

l. Neal Tenen

On September 20, 2002, Respondents filed case no. BC281865 ("Oklahoma Tire Case").

On October 24, 2002, Respondents sent a red letter to defendant Fred Ronn ("Ronn"). Ronn gave it to his attorney Neal Tenen ("Tenen"). The red letter falsely stated that some defendants had "challenged their lawsuits based on technicalities and now find themselves – after spending a lot of time, money, and energy – in exactly the same position in which they were initially." It also stated that every single case that had been completed had ended with an out of court settlement.

On October 25, 2002, Ronn received another letter from Respondents stating that he had 30 days to answer the complaint or else CEW would seek a default judgment and Ronn would be forced to pay the default judgment. The letter did not inform Ronn that he had other such as filing a demurrer or motion to strike as other defendants had done in similar lawsuits with Respondents.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By sending Ronn letters that contained false or misleading statements in order to pressure Ronn into settling the Oklahoma Tire Case, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

m. Marla Merhab Robinson

On September 24, 2002, Respondents filed case no. BC282020 ("Progressive Lenders Case") and named Santiago Communities, Inc. ("Santiago"), as one of the defendants. Santiago had previously settled UCL litigation on June 7, 2002.[27]

On October 31, 2002, attorney Marla Merhab Robinson ("Robinson") sent a letter to Respondents on behalf Santiago asking for dismissal of the Progressive Lenders Case against Santiago because it had resolved the alleged violations in the Remax 100 Case and had stopped using the allegedly offensive advertisement. Robinson's letter advised Respondents that the Progressive Lenders Case against Santiago was barred under the principles of res judicata.

Respondent Trevor then left a message for Robinson stating that the cases were different. Respondents did not dismiss Santiago from the Progressive Lenders Case despite their representations to other UCL defendants that settlement would bar further prosecution under the theories of res judicata and/or collateral estoppel.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

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[27]Santiago was a defendant in *Oscar Sohi dba California Watchdog v. Remax 100 et al.* ("Remax 100 Case"), case no. BC274825. This case was filed by Brar & Gamulin, a firm where Respondent Han worked during the time Santiago settled the Remax 100 Case. Attorney Harpreet Brar attended Western State with Kort and Respondents Han and Hendrickson.

The charges that Respondents violated sections 6068(g) and 6106 regarding pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By not dismissing Santiago under principles of res judicata or collateral estoppel while at the same time representing to other UCL defendants that those principles precluded further prosecution, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

n. Anahid Agemian

On December 14, 2002, 101 Phoenix Inc., a named defendant in the Blue Banana Case, contacted its attorney, Anahid Agemian ("Agemian") about the lawsuit. On January 7, 2003, Agemian telephoned Respondent Trevor. Since he was unavailable, Agemian spoke to a paralegal.

Agemian asked the paralegal for an extension of time to respond to the complaint in the Blue Banana Case. The paralegal told Agemian that the Blue Banana Case had been stayed pending a determination whether the case would be deemed "complex." The paralegal told Agemian that her client could settle the lawsuit for $1,200.

Several days later, Agemian spoke to Respondent Trevor who said that it would be expensive to take the case to trial but inexpensive to settle it. On January 21, 2003, Respondent Trevor faxed Agemian a letter asking her client to produce four years of business records. The letter falsely stated that section 9880 and Cal. Code Regs., tit.16, section 3350 required 101 Phoenix 101 to maintain four years of business records for inspection. The letter also demanded $1,670 as settlement of the lawsuit.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By faxing Agemian a letter containing false statements regarding the requirement of maintaining four years of business records in an effort to pressure settlement and in furtherance of a scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106;

By demanding settlement on behalf of a shell corporation, Respondents committed acts of moral turpitude, dishonesty or corruption in violation of section 6106.

4. ACCOUNTING ISSUES

a. Bank Accounts

Since April 2002, Respondents maintained three client trust accounts and two general accounts at Wells Fargo Bank.

1) Respondents maintained CTA 2082816642 ("CTA No. 208") from April 17 through August 15, 2002. They deposited at least $4,000 of UCL settlement funds into this account. On June 28, 2002, Respondents withdrew all of the funds in CTA No. 208 totaling $6,745 and deposited them in general account no. 0713858254 which was used to pay office expenses.

2) Respondents maintained CTA No. 3821161340 ("CTA No. 382") from March 7, 2002, through January 7, 2003. They deposited at least 48 settlement checks totaling approximately $113, 274 in this account.

3) Respondents opened CTA No. 5725117625 ("CTA No. 572") on January 3, 2003. They deposited at least five restaurant UCL settlement checks totaling approximately $4,060 in this account.

4) Respondents opened general account no. 713858254 ("GA No. 713") on March 15,

2002. From March through September 18, 2002, they used this account as their primary business operating account.

From September 20 through 26, 2002, Respondents deposited $300,000 into this account, representing the first three advance payments from LitFunding to finance UCL litigation. They disbursed the following amounts to themselves over and above regular payroll:

1) Between September 20 and October 11, 2002, Respondent Trevor received $140,000;

2) Between September 23 and October 2, 2002, Respondent Hendrickson received $30,000; and

3) Between September 24 and 27, 2002, Respondent Han received $30,000.

On December 13, 2002, Respondents paid LitFunding $14,500 from this account which represented LitFunding's portion of 20 UCL settlements plus 45% interest. As of January 15, 2003, the account balance was $1,024.53.

5) Respondents opened general account no. 3175768740 ("GA No. 317") on September 18, 2002, with a deposit of $200,000, reflecting two advance payments from LitFunding to finance UCL litigation. On November 6, 2002, Respondents deposited the final $100,000 advance payment from LitFunding into this account.

Respondents disbursed the following amounts to themselves from this account:

1) Between October 7 and November 13, 2002, Respondent Hendrickson received $50,000;

2) Between October 17 and November 12, 2002, Respondent Han received $30,000; and

3) On November 12, 2002, Respondent Trevor received $10,000.

b. CEW's Funds

The only cost CEW incurred from its incorporation through January 2003 in relation to the UCL litigation was a $7 annual fee for a private drop box. In February 2003, Kort created a website for CEW and listed an office location in Newport Beach which was under construction at the time. Respondents advanced Kort $1,200 to pay the costs of the website and office. Apart

from this $1,200 advance, CEW did not receive any of the UCL settlement funds.

According to Engholm, Respondents maintained two CTAs: one for settlements from UCL restaurant defendants and the other one for all other settlement funds.

Since the formation of CEW in April 2002, Respondents claim to have settled approximately 70 - 80 cases relating to UCL litigation for between $6,000 - $26,000 each.

Kort never maintained a written log or ledger accounting for CEW's settlement funds nor did he maintain separate copies of UCL settlement agreements or documents. Kort, even though he was the president of CEW, never inquired about CEW's portion of the UCL settlement funds nor did he inquire whether Respondents were keeping CEW's funds in an attorney-client trust account. Respondents never provided an accounting to Kort regarding the disbursement of settlement funds. Kort does not know how much money Respondents obtained on CEW's behalf from the UCL litigation.

The fee agreements between Respondents and CEW provided that all settlement funds be disbursed only to Respondents and CEW, yet Respondents never shared them with CEW. The settlement funds were collected solely as attorney fees and costs, and no accounting thereof appears to have been made to CEW.

No amount of funds went to the general public as restitution.

c. <u>Engholm as Bookkeeper and Accountant for Respondents</u>

In July 2002, Respondents employed Engholm as a bookkeeper/accountant for their office. She managed or monitored approximately four bank accounts although she had no prior experience and received no training as a bookkeeper or accountant.

In 2002, Respondents used office funds to purchase new cars for themselves and employee Farber. At Respondent Trevor's direction, Engholm issued checks from Respondents's general accounts for expenses including car and insurance payments.

On at least two occasions, Engholm advised Respondent Trevor that there were insufficient funds in the general account to pay employee salaries. Respondents transferred

$76,361 from CTA No. 382 into GA No. 317 on December 4, 2002, to cover payroll. They also transferred $53,000 from CTA No. 382 into GA No. 317. In January 2003, Respondents again transferred funds from a trust account to a general account to make payroll.

Conclusions

Pursuant to section 6007(c)(2)(C), based on the evidence presented, the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charges:

By withdrawing all settlement funds, at least $6,745, from CTA No. 208 and depositing them into GA No. 713, Respondents failed to maintain funds belonging to CEW in a client trust account in violation of RPC 4-100(A) and committed an act involving moral turpitude, dishonesty or corruption in violation of section 6106.

5. FALSE STATEMENTS TO THE PUBLIC[28]

a. *Daily Journal*

On November 11, 2002, the *Daily Journal* reported a story about Respondents in which Respondents allegedly made false statements about various things such as Kort's financial status and their business relationship with him, among other things.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By knowingly making false and misleading statements to the general public through the *Daily Journal* in order to advance their scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

b. Respondents's Fee Agreement with LitFunding

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[28]Although not technically made to the general public, Respondents made misrepresentations to their own law clerks who were handling the UCL cases. Among the misstatements made include representations that The Trevor Law Group had no relationship with CEW (See Exhibit 21, Declaration of Matt Laviano; Exhibit 23, Declaration of Milli Kim, paragraph 12.)

In August 2002, Respondents met Morton Reed ("Reed"), president and CEO of LitFunding, a company that provides non-recourse funding to attorneys and law firms. Respondents proposed a plan to sue automotive repair shops that they claimed were committing fraud on the public. Respondents knowingly misrepresented to Reed that they had obtained a list of offenders from the California Attorney General's Office ("AG"), but, in reality, Respondents had obtained lists of potential defendants from the Bureau website. They also knowingly misrepresented to Reed that the Orange County District Attorney's Office ("OCDA") supported their pending UCL litigation when, in reality, Respondents did not have the support or assistance of OCDA.

In August through September 2002, LitFunding agreed to hold $1 million as "cash reserve" for Respondents to be applied to cases approved by LitFunding.

From September through November 6, 2002, LitFunding advanced a total of $600,000 to Respondents in six advances of $100,000 each. In November 2002, Reed heard negative press regarding Respondents' UCL litigation; learned that Respondents did not have the support of the OCDA; and that they were suing small businesses for minor Bureau of Automotive Repairs ("Bureau") violations. Reed met with Respondent Trevor on December 3, 2002, who told Reed that Respondents had settled approximately 36 automotive repair shop cases with an average settlement of $2,500 to $3,000. Respondent Trevor told Reed that there were less than 1500 "viable" defendants because many of the owners that were sued were "successors in interest."

On December 9, 2002, Respondent Trevor sent Reed a letter which stated that Orange County Superior Court Judge James Selna had informed defense counsel that the lawsuits were going to be tried and that Respondents would move to sever the cases for trial to "dismantle" the misjoinder issue. Respondent Trevor's letter also stated that some defendants would likely have to settle or have judgment against them in the range of $10,000 to $20,000.

In January 2003, Reed asked Respondents to produce a budget for the next four months. On January 28, 2003, Respondent Hendrickson faxed Reed a letter which falsely stated that

Respondents would be taking five defendants to trial within the next 120 days. In reality, Judge Selna had informed Respondents that it was too early to determine whether cases would proceed to trial within 120 days. Respondent Hendrickson's letter also falsely stated that CEW and the UCL litigation were the "only means of communicating with, or enforcing any regulatory scheme" on the automobile repair industry. Reed's response was that LitFunding would not advance any further funds for the UCL litigation.

On February 11, 2003, Respondent Hendrickson sent Reed a letter demanding further funding of $400,000 and stating that one of the "compelling factors in determining the competency of a plaintiff in a case such as these Auto Repair Cases is that the plaintiff is adequately capitalized."

In February 2003, Respondents filed an application for a temporary restraining order ("TRO") against LitFunding and seeking that LitFunding pay Respondents $400,000. The TRO was denied on February 20, 2003. On February 27, 2003, Respondents served Reed with a UCL lawsuit in case no. SC075989, entitled *Trevor Law Group v. LitFunding Corporation* ("LitFunding case"). The complaint in the LitFunding Case alleged fraud, misrepresentation, breach of contract, unfair competition pursuant to the UCL, aiding and abetting/civil conspiracy and negligence.

Respondents maintained that they would not have filed UCL lawsuits against approximately 2,000 defendants but for LitFunding's promise to advance $1 million for the UCL litigation and that they could not complete the UCL litigation without the promised funding.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false and misleading statements to LitFunding regarding the support or assistance of the OCDA and the AG with the intent of obtaining $1 million to fund UCL litigation, Respondents committed acts involving moral turpitude, dishonesty or corruption in

violation of section 6106.

Based on the evidence presented, pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By relying financially on LitFunding to fund approximately 2,000 UCL lawsuits; permitting LitFunding to place a lien on each settlement; agreeing to pay each lien to LitFunding with a minimum of 45% interest from settlement funds; and becoming completely dependent on LitFunding thereby ceding control of the UCL litigation to LitFunding, Respondents unlawfully shared legal fees with a non-attorney entity in violation of rule 1-320(A).

c. KFI Radio - The John & Ken Show

On December 6, 2002, Respondent Trevor and Kort, as "Ron Jamal", appeared on the John & Ken Show on KFI radio station.

Respondent Trevor made false statements. Specifically, Respondent Trevor stated the following concerning the organization of CEW:

"Interviewer: 'Yeah, but the public is not going to get any money that Jacci Fletcher might pay you. It just goes to this corporation that you've set up.'

"Trevor: 'That's incorrect. We did not set up the corporation. The Corporation is a separate and distinct entity.'"

Respondent Trevor also stated that CEW had an "actual office and there's an actual phone that answers" at CEW in Santa Ana, California. When pressed for the address for CEW, he refused to provide it, claiming attorney-client privilege. However, when Ron Kort, (using the name of Ron Jamal) came on the program after being called by Respondent Trevor, Kort stated that the address was 1502 N. Broadway, Santa Ana, California 92706. He reaffirmed that "it's an actual office." Later, in his deposition, Kort admitted what he and Trevor meant by having an "actual office":

"Q. Do you recall stating on a radio talk show that your addresses for Consumer Enforcement Watch were located at 1502 North Broadway, Santa Ana, California

92706?

A. I do.

...

Q. Do you have a physical office there?

A. No, it was just a virtual office. It was a physical address. I was considering taking up office space there."

Mr. Kort then went on to explain that he had given the landlord a rent check which was returned to him. He then explained that CEW was "at" that address for "a day or two or three."

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false and misleading statements to the general public through a radio program in order to advance their scheme to defraud, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

d. <u>ABC Television - Channel 7 News</u>

In December 2002, Respondent Trevor appeared on ABC's Channel 7 News on television. Respondent Trevor knowingly made a false statement regarding the support Respondents had from the Orange County District Attorney ("OCDA"). In that interview, he stated as follows:

"...I also just received just on Thursday, a call from the OCDA complimenting our lawsuit and uh, asking for uh, if we need any support whatsoever, they'd be happy to help us."

This statement was false and was corrected by Joseph D'Agostino of the Consumer/Environmental Unit of the OCDA's office in a letter to Respondent Han dated November 21, 2002. That letter stated the following:

"Furthermore, it has come to our attention that your firm is using our office's name to

show support for your lawsuit. Please understand that the Orange County District Attorney's Office does not approve of this. Although you have attempted to contact me in regards to this lawsuit, we still have had no communication on the subject and I am disturbed by your characterization that the District Attorney's Office is helping your firm endorse this lawsuit. In actuality, we at the District Attorney's Office have not made any indication of the sort. Please accept this letter as a warning to stop using this office's name to further your lawsuit in any way."

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false and misleading statements to the general public on television on ABC Channel 7 News in order to advance their scheme to defraud, Respondent Trevor committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

e. Senate and Assembly Judiciary Committee Hearings

On January 14, 2003, Respondents Han and Hendrickson appeared before the Senate and Assembly Judiciary Committees to answer questions regarding Respondents's UCL litigation.

Senator Martha Escutia, Chair of the Judiciary Committee, asked Respondent Han whether any of Respondents had any relationship with any person from CEW. Respondent Han knowingly made false statements by stating that there were no relationships between anyone at Respondents and CEW. In reality, Respondents Han and Hendrickson had maintained personal and business relationships with Kort, Strausman was Respondent Hendrickson's wife and Engholm was Respondent Trevor's girlfriend.

Assembly Member Ellen Corbett, Chair of the Assembly Judiciary Committee, asked Respondent Han whether there were friends or relatives of Respondents who were affiliated with CEW. He denied such affiliations existed. Respondent Hendrickson, who was present, did not correct Respondent Han's misrepresentation to Senator Escutia or Assembly Member Corbett.

Assembly Member Corbett informed Respondents Han and Hendrickson that Strausman was listed as the agent for service of process for CEW. Respondent Han falsely stated that Strausman was no longer the agent for service of process for CEW and was currently employed by Respondents. When Assembly Member Corbett challenged this assertion, noting that she had a document from the Secretary of State dated January 13, 2003, indicating Strausman was still CEW's agent for service of process, Respondent Han admitted that the records had not been updated.

Respondent Han further falsely stated to the Senate and Assembly Judiciary Committees that the Orange County District Attorneys office had left messages for Respondents stating that they supported what Respondents were doing.

Conclusions

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By making false and misleading statements to the joint informational hearing of the Assembly and Senate Judiciary Committees, Respondents Han and Hendrickson committed acts of moral turpitude, dishonesty or corruption.

6. CONTINUING MISCONDUCT

a. Respondents' Admissions

On January 15, 2003, State Bar investigator Noonen met with Respondents. They admitted that they conducted little or no independent investigation prior to filing the UCL lawsuits. They also noted that they intended to continue litigating the UCL lawsuits and would file against defendants separately if defendants succeeded on the misjoinder issue.

b. Additional False Statements

On January 31, 2003, Noonen visited the site of CEW's new office location as provided by Kort and Respondents: 2901 West Pacific Coast Highway, Ste. 200, Newport Beach, California. There was no listing or identification of CEW as a business at that address and the

entire floor was under construction.

On February 3, 2003, Noonen contacted Respondent Trevor and requested copies of documents Respondents submitted to the Senate and Assembly Judiciary Committees after the hearing on January 14, 2003. The Committees had requested additional information from Respondents including copies of sample settlement demand letters sent to UCL defendants.

After receipt of the documents from Respondent Trevor, Noonen discovered that the sample letters given to the Senate and Assembly Judiciary Committees did not contain the previously discussed false and misleading language such as: (1) statements regarding inspection of business records pursuant to section 9880 and (2) statements regarding range of settlement.

Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By providing false or redacted documents to the Senate and Assembly Judiciary Committee, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

b. Glendale Infiniti

On February 6, 2003, attorney Wayne Grajewski ("Grajewski") wrote to Respondents seeking dismissal of his client, Glendale Infiniti, from case no. BC282336 ("E Auto Glass Case"). Grajewski's letter explained that the basis of the lawsuit, namely one NOV issued by the Bureau, had been resolved in Glendale Infiniti's favor. The Bureau had rescinded the NOV against Glendale Infiniti in January 2003 and found no violations.

In response to Grajewski's letter, Respondent Han sent a letter stating that Respondents would maintain Glendale Infiniti as a defendant in the E Auto Glass Case regardless of the Bureau's findings. The letter also stated that as soon as the court lifted its stay on discovery, Respondents would proceed on the matter.

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Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:

The charges that Respondents violated sections 6068(c), (g) and 6106 regarding the failure to investigate allegations and pursuing an action from a corrupt motive have been addressed *supra* at section IV.1.d.(3).

c. Progressive Lenders Case / Mesa Homes

Respondents filed the Progressive Lenders case on September 24, 2002 in Los Angeles Superior Court, case no. BC282020, naming Mesa Homes as a defendant along with 10,000 "Doe" defendants.

Between November 2002 and March 19, 2003, Respondents Han and Trevor engaged in settlement discussions, discovery and a discovery motion and court events with Mesa Homes' counsel, Matthew Beyersdorf.

Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By knowingly maintaining UCL litigation on behalf of CEW, attempting to obtain settlement funds on CEW's behalf, sending settlement documents containing false and/or misleading statements, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

d. Automobile Advertising Cases

On March 21, 2002, the San Francisco Superior Court issued an order for Judicial Council Coordination Proceeding 4149 ("JCCP 4149") in *In re Automobile Advertising Cases.* The order provided that any "new complaints involving the same legal theories against automobile dealerships to which any party or counsel in JCCP 4149 is either a party or counsel shall be the subject of an add-on petition filed, within ten (10) days of such party's or counsel's

knowledge of such new case, directly in Department 608 by such party or counsel."

In June 2002, Eric Sommers, plaintiffs' liaison counsel in JCCP 4149, learned of three UCL automobile advertising cases that The Trevor Law Group had filed: 1) *CEW v. Rice Honda Superstore, et al*, case no. BC274878 ("Rice Honda case"); 2) *CEW v. Gateway Auto Center, et al*, case no. BC276390 ("Gateway Auto case"); and 3) *CEW v. McMahons RV et al*, case no. BC274879 ("McMahons case") (hereafter jointly "CEW advertising cases"). He discovered that Respondent Han had been attempting settlements with defendants in JCCP 4149 on CEW's behalf for claims that had already been raised by Sommers' client, Paul Dowhal. The CEW advertising cases named hundreds of automobile dealers as "Doe" defendants, many of whom were already the subject of judgments and injunctions entered by the coordination trial judge in JCCP 4149.

On June 25, 2002, Sommers advised Respondent Trevor that the CEW advertising cases named many dealerships that were already the subject of judgments and injunctions or ongoing litigation in JCCP 4149. He asked Respondent Trevor to dismiss the overlapping defendants from CEW's cases. Trevor refused.

On June 28, 2002, Sommers sent The Trevor Law Group a letter advising them of Dowhal's claims and provided a list of automobile dealerships that were part of JCCP 4149. He further admonished Respondents that conducting settlement negotiations on behalf of the general public without Dowhal would be a violation of rule 2-100 of the Rules of Professional Conduct. He also advised that they would be in violation of rule 804, Cal. Rules of Court, if they tried to enter into any judgments against defendants who were a party to JCCP 4149 unless they filed a notice of related cases as required. Respondents neither answered Sommers' letter nor filed a notice of related cases.

In August 2002, when Sommers learned that Respondents had not opposed a demurrer filed by an overlapping defendant, he and plaintiffs' attorney Westrup Klick and Associates (hereafter "Westrup") jointly filed motions to intervene in CEW's advertising cases.

On September 25, 2002, Judge Highberger of the Los Angeles Superior Court, deemed the CEW advertising cases related and stayed them pending a determination on a petition to add on the cases to JCCP 4149.

At the hearing on the motions to intervene, Judge Highberger ordered Respondents to add on the CEW advertising cases to JCCP 4149, but they did not do so properly. On October 23, 2002, Judge Highberger instructed Westrup to do so.

Despite the court orders in JCCP 4149, Respondents filed *CEW v. Santa Monica Acura, et al*, Los Angeles Superior Court case no. SS011402, on November 14, 2002, which involved the same legal theories as those in JCCP 4149. Respondents did not file an add-on petition or otherwise notify the court or parties in JCCP 4149. In March 2003, Sommers learned about this case and about Respondents' efforts to settle with defendants therein in direct violation of the court's orders in JCCP 4149.

On March 11, 2003, Sommers sent Respondent Han a letter reminding him of the obligation to add on the Santa Monica Acura case to JCCP 4149. As of April 1, 2003, they had not done so.

The following matters represent attempts to litigate and settle cases in contravention of the order in JCCP 4149:

(1) <u>Bunnin Buick - GMC and Corona Wholesale Auto</u>

On August 26, 2002, attorney Sheldon Cohen wrote to Respondent Han advising that seven of Cohen's clients had been previously sued and settled the same violations alleged in the Gateway Auto case. From October 2002 through February 2003, he repeatedly sought dismissal of these clients. Respondent Trevor eventually dismissed Cohen's client, Bunnin Buick - GMC, after trying to obtain another settlement from that client and, when that failed, offering to dismiss that client if Cohen convinced other clients to settle. Cohen rejected this offer and advised Respondent Trevor that his offer was "highly inappropriate."

In March 2003, Respondents served three of Cohen's clients with the Santa Monica

Acura case. On March 5, 2003, Berley Farber contacted Cohen's client, Mike Camarra, at Corona Wholesale Auto seeking a $5000 settlement and indicating that most of the advertising cases settled for $15,000. That same day, Respondent Trevor faxed Camarra settlement documents falsely promising a bar on further prosecution pursuant to the principles of res judicata and collateral estoppel.

As a result, Cohen advised Respondent Han that any attempts to settle an automobile advertising case pursuant to judgment to be entered in court was a violation of the March 21, 2002, order in JCCP 4149 and that he rejected the settlement offer.

(2) Audi of Newport Beach

In mid-March 2003, Respondents served Tim Tauber, general manager of Audi of Newport Beach ("Audi"), with the complaint in the Santa Monica Acura case in which Audi was named as a defendant. Since then, they left two or three voice-mail messages inquiring whether Audi would be interested in settling the case rather than going to court. Tauber did not return these calls.

(3) 4 Wheel Specialist

In mid-March 2003, Respondents served Albert Aghachi, general manager of 4 Wheel Specialist, with the complaint in the Santa Monica Acura case in which 4 Wheel Specialist was named as a defendant.

Aghachi and Respondents Han and Trevor engaged in settlement discussions which Aghachi ultimately rejected.

(4) Advantage Auto Corporation

In mid-March 2003, Respondents contacted David Lutton, the general manager of Advantage Auto Corporation, to discuss possible settlement of a lawsuit Respondents had filed on CEW's behalf and of which Lutton was unaware. About two weeks later, Lutton received a copy of the Santa Monica Acura case.

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Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By violating the court orders in JCCP 4149 by pursuing the UCL litigation and attempting to settle JCCP-related cases and failing to add on the CEW advertising cases to JCCP 4149 as set forth above, Respondents committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

e. Westwood Tire & Wheel, Inc., and California Sports

In September or October 2002, Respondents served Westwood Tire & Wheel, Inc., and California Sports ("Westwood Tire") with a lawsuit entitled *CEW v. Oklahoma Tire Service, et al*, ("Oklahoma Tire Case"), alleging that Westwood Tire had operated during specified periods without a valid business license.

On behalf of his client Agraham Aghachi, owner of Westwood Tire, attorney Steven Adelman provided Respondent Han with copies of valid licenses and advised him that the allegations were incorrect. Respondent Han nonetheless demanded $5000 in settlement, threatening to conduct discovery, to find additional violations and to collect any judgment awarded in this case against Aghachi personally.

Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is a reasonable probability that the State Bar will prevail as to the following charge:

By failing to investigate or consider evidence provided by Adelman and threatening to use the discovery process to obtain settlement funds unjustifiedly, Respondent Han committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

f. Kokomo Café

On December 11, 2002, Respondents dismissed the lawsuits filed on behalf of HHB. On December 12, 2002, Respondents refiled the suit against the same defendants in the *CEW v. Blue*

Banana case.

Respondents, however, did not notify defendants of the dismissals. After December 11, 2003, attorney Kenneth Linzer, counsel for Kokomo Café, called and wrote letters and to Respondents seeking an extension of time to respond to HHB's Blue Banana case as he was getting married on December 22, 2002. Since he received no response to his calls and letters, he filed an answer in that case on December 27, 2002. He later learned the case had been dismissed.

On January 29, 2003, Linzer wrote to Rozsman seeking reimbursement for attorney fees and costs in relation to HHB's Blue Banana case. In late February or early March 2003, Respondent Trevor told Linzer that The Trevor Law Group would not voluntarily pay attorney fees or costs.

On March 11, 2003, Respondent Han sent Linzer a letter seeking to negotiate settlement in the Blue Banana case. The letter admitted that restitution was available to "identified victims" but that such victims could be identified by reviewing Kokomo's business records, including credit card receipts, and by using negative publicity or correspondence to customers if Kokomo did not settle the lawsuit.

Conclusion

Pursuant to section 6007(c)(2)(C), the Court finds that there is not a reasonable probability that the State Bar will prevail as to the following charge:

By knowingly pursuing UCL litigation and attempting settlement on behalf of CEW, threatening to review business records and to engage in negative publicity, Respondent Han committed acts involving moral turpitude, dishonesty or corruption in violation of section 6106.

V. DISCUSSION

Business and Professions Code section 6007(c)(1) provides that an attorney may be involuntarily enrolled inactive upon a finding that the attorney's conduct poses a substantial threat of harm to the interest of the public or the attorney's clients. In order to find that an attorney's conduct poses a substantial threat of harm to the interests of the public or his clients,

section 6007(c)(2) requires that three factors be found:

1. That the attorney has caused or is causing substantial harm to his clients or the public;
2. That the attorney's clients or the public are likely to suffer greater injury if the involuntary inactive enrollment is denied than the attorney is likely to suffer if it is granted, or that there is a reasonable likelihood the harm caused by the attorney will reoccur or continue; and
3. That it is reasonably probable that the State Bar will prevail on the merits of the underlying disciplinary matter.

The Court concludes that the State Bar has demonstrated each of the above-referenced factors by clear and convincing evidence as to each Respondent.

a. Reasonable Probability the State Bar Will Prevail

Throughout the above Findings of Fact and Conclusions of Law, this Court has made the required findings and conclusions with respect to the third of the above factors; that is, the likelihood of the State Bar prevailing on the merits of the charges presented in the Application. Those findings and conclusions will not be repeated here, except to note that the State Bar has satisfied its required proof as to section 6007(c)(2)(C). Although the facts may support finding other ethical violations, the Court has only addressed the charges presented.

b. Substantial Harm to the Public or the Attorney's Clients

As is discussed in more detail elsewhere in this Decision and Order, Respondents created Consumer Enforcement Watch Corporation to act as a "client" in the UCL cases. This Court has found that CEW was the alter ego of Respondents and The Trevor Law Group. This corporation had no history of activities in the consumer protection field. In fact, in the "game plan" document prepared by Respondent Han, he contemplated the purchase of another corporation instead of incorporating a new company in order to give the appearance of longevity. CEW was substantially controlled by Respondents and their law school friend, Mr. Jamal/Kort. The

designated agent for service of process was Respondent Hendrickson's wife and the corporate secretary was Respondent Trevor's girlfriend, Summer Elizabeth Engholm, (who was unaware what a corporate secretary was and admitted that she "really didn't do any work for them.")[29] For a period of time, CEW resided in a "virtual office" in Mr. Kort's words. In fact, for most, if not all of its existence, the corporate headquarters appears to have been a post office box. The accounting records of the corporation were, to say the least, minimal, if not non-existent. Finally, based on the February 11, 2003, letter (Exhibit 7, tab 7) sent by Respondent Hendrickson, it appears that CEW was totally dependent on LitFunding for adequate capital. In that letter, Hendrickson stated the following, including a threat in the event LitFunding would not agree to continue financing the litigation:

> "One of the compelling factors in determining the competency of a plaintiff in a case such as these Auto Repair Cases is that the plaintiff is adequately capitalized. Without the promised $400,000, this office may be forced, on behalf of our client, CEWC, to inform the judges in these Auto Repair Cases that there are insufficient financial resources necessary to complete the litigation."

In summary, CEW was nothing more than a shell of the Respondents and their law firm, designed to act as a placeholder, filling the role of "client" in the litigation that Respondents created.

(1) <u>Harm to Clients</u>

Given the above status of CEW, it is not meaningful to consider, pursuant to section 6007(c)(2)(A), the impact that the Respondents' behavior had on this "client."[30] However, the

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[29]Engholm was later hired by Respondents' law firm to do bookkeeping and accounting work and to maintain the two client trust accounts although she had no training in those areas.

[30]For a brief period, Respondents did have a legitimate client in Helping Hands for the Blind. The president of HHB was interested in the prospect of requiring restaurants to make available Braille menus and deal with other access issues in the restaurant industry. However, Respondents filed four UCL lawsuits naming over 1,000 defendants on behalf of HHB without HHB's permission. These lawsuits did not seek the relief that Respondents had promised.

real impact of Respondents' actions lies with harm they have caused to the public.

(2) Harm to Public

Because of Respondents' efficiency in "manufacturing" claims, their relatively small firm was capable of far-reaching harm. Through the use of a relaxed standing requirement in the UCL combined with Internet technology, Respondents were able to redefine traditional notions of "plaintiff" and "defendant." As noted above, they created a plaintiff. Then their legal production line fashioned defendants from websites designed to assist the public in making choices about auto shops or restaurants. With little or no investigation, lawsuits were filed on a mass scale. Immediately after filing these lawsuits, Respondents would commence high pressure settlement tactics to attempt to accomplish a quick payment to Respondents of amounts calculated to be just under the amounts lawyers would charge these defendants as retainer fees to litigate their cases.

Often, the settlement demands were carried on even where defendants gave rational, verifiable explanations as to their innocence of any wrongdoing. In one case, a defendant was sued because he did not have a valid license. Despite the defendant's explanation that he had always had a license and that, since he incorporated the business, the license was held in the corporate name, Respondent Trevor persisted in aggressively pushing settlement through abusive telephone calls and several letters. (Declaration of Ahmad Ghanavatzadeh, Exhibit 38.) Respondent Trevor also threatened to shut down the business of a defendant if he chose to assert his legal right to defend the lawsuit. (Declaration of Michael Batarseh, Exhibit 46.)

Using the law which allows the naming of fictitious "Doe" defendants (where the names or liabilities of defendants are not known at the time of filing), Respondents were able to name

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Thereafter, HHB terminated its relationship with Respondents and retained other counsel. Upon demand by HHB and its new attorney, those cases were dismissed and refiled with CEW as a plaintiff. In a parting shot, Respondents sent a letter to HHB's new attorney, informing him that HHB will likely be receiving cost bills and perhaps, may be liable for malicious prosecution or abuse of process claims. From this brief encounter with a real client, we can see that Respondents were not at all focused on their client's needs or welfare. They acted without HHB's authority, kept HHB's settlement funds and exposed HHB to legal liability for Respondents' unauthorized actions.

thousands of defendants. Oftentimes, however, these defendants were identified as "Does" even when their names and "liability" were known to Respondents.[31]

This abuse of the fictitious defendant statute contributed to Respondents' harm to the public. The effect of naming many "Doe" defendants was to create a brief window of time when few of the defendants knew of the existence of other defendants. During this period, Respondents would begin to impose enormous settlement pressure, often employing misrepresentations of fact to compel payment. Because these recently added "Doe" defendants did not yet know the identities and contact information for other defendants, they were unable to compare claims and retain joint counsel, which would have made litigating the cases more economical. When defendants became troublesome and actually did retain counsel, Respondents often dismissed those defendants, seeking to focus upon more vulnerable prey.

In order to handle the volume of cases they were attempting to settle, Respondents employed up to ten law clerks to assist in the workload. However, these law clerks did not simply assist the attorneys in the firm. Rather, they crossed the line and practiced law without a license, all the while being aided in that practice by Respondents. These clerks were given scripts to follow. If the clerks, in their discretion, felt that the case merited more or less than the "standard" $2,500 settlement amount, they were told to obtain authority to increase or decrease the amount demanded. Where the business had been sold and the "violations" had been made by the previous owner, the clerks were instructed to explain the law of successor liability to the defendant on the telephone. Sometimes, the clerks were even instructed to call the defendants to make the first contact to demand settlement. For their efforts in settling cases, the law clerks were paid bonuses of between $250 to $3,000, sometimes calculated on the basis of the volume of successful settlements within a given period of time. The faster they settled, the more money they would receive.

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[31]On at least one occasion, the "Doe" amendments for 98 defendants were filed on the same day as the original complaint.

Respondents' use of the court system for their claims generated settlements from the defendants they sued. Although it is difficult to determine the exact numbers involved, due in large part because of CEW's poor record keeping, it appears that 70 - 80 cases have settled. Many of these cases were not serving the public interest, but rather were attacking small businesses who had violations of the most minor type. Often, the businesses sued were not even the same as the violating business, because the businesses had been sold since the violation had occurred. Nevertheless, Respondents continued with those lawsuits based on minimal or non-existent investigation. Defendants were forced to either pay attorneys' fees or settle a case wrongfully filed. Some businesses were forced out of business as a result of Respondents' actions. For others, after the case had settled and payment was made, another lawsuit by Respondents was filed against the same defendants. More money was demanded, and the cycle began again.

The harm to the public did not end with attorneys fees or settlement payments. As a result of the actions of Respondents, the information contained on the government websites has since been limited in order to avoid the impact of the UCL lawsuits filed by Respondents. Further, the image of lawyers and the legal profession has been damaged as a result of Respondents' conduct. Media reports have characterized Respondents' conduct as frivolous and predatory in nature. In some of these reports, Respondents have actually participated, and were caught in misrepresentations that further denigrated the legal profession.[32]

During hearings before the Senate and Assembly Judiciary Committees, Respondent Han answered questions regarding the relationship, if any between The Trevor Law Group and CEW. Han was asked if there were any friends or relatives of the law firm who were affiliated with

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[32]As an example, Respondent Trevor was interviewed on KFI Radio on the John and Ken show. During that interview, Trevor stated that CEW had an "actual office and there's an actual phone that answers." Later, Mr. Jamal/Kort was asked the same question. He also said there was an actual office and gave the address in Santa Ana. During his deposition in this proceeding, however, he admitted that there was no CEW office at that location, but that it was a "virtual" office - a physical address where he was "considering" taking up office space.

CEW. To the convened legislators, Respondent Han stated that there were no relationships "personal or otherwise" between the two entities. Later, he admitted that Respondent Hendrickson's wife was the agent for service of process; the President, Mr. Jamal/Kort, was a law school friend; and Respondent Trevor's wife was the corporate secretary.

On another important level, the public has been harmed. In a day of severe economic challenges to our court systems, Respondents have clogged the courts with thousands of what appear to be frivolous lawsuits. They have shown a disrespect to the court system by violating the joinder rules; ignoring court orders; and manipulating the important rights associated with the ability of a plaintiff to name fictitious "Doe" defendants.

Respondents have countered the above allegations by claims that several judges have signed stipulations for injunctive relief, thereby validating the *bona fides* of their cases. Also, Respondents have claimed they are carrying out the public good contemplated by the UCL; that they are simply acting as private attorneys general to enforce consumer rights.

When courts have had the opportunity to question these claims, however, they have arrived at a different conclusion. Judge Carl J. West of the Los Angeles Superior Court was one such judge who has apparently seen through the public service rhetoric of Respondents. In a hearing on an Order to Show Cause as to why the automobile repair shop cases brought by Respondents should not be dismissed, Judge West noted that, had these stipulated judgments been presented to him "with adequate resources and the time to look at what was going on, in all likelihood, they would not have been entered." (Transcript of March 28, 2003 hearing, at p. 10:8 - 10, Bates stamp 30 (Ex. 58) (hereafter "Transcript"). He concluded by advising Respondents "So, I don't think you should find a lot of solace in the fact that you have had three judgments entered." (Transcript at p. 10:27 - 28.)

Further, in Judge West's order dated April 1, 2003 dismissing the automobile repair shop cases involving approximately 2,000 defendants, he noted as follows:

"In considering the potential for harm, the court must balance the equities between the

Plaintiff and the Defendants. In this case, the Court has been provided with substantial evidence, of which it has taken judicial notice, that indicates that these cases were not filed, and are not being prosecuted for a proper purpose. [Footnote omitted.] The consequences of the filing of these actions, and other similar actions in other counties, do not appear to this Court to benefit the public in any way."

(Judge West's April 1, 2003, order at p. 6:18 - 23, Exhibit 57.)

The cases facing Judge West are many of the same cases that are the subject of this proceeding. This Court is not inclined to view these same cases in a manner different from Judge West. It is difficult to see any public benefit to Respondents' actions. To the contrary, there is serious harm suffered by the public resulting from these cases, as set forth above. Therefore, this Court finds that the State Bar's proof has satisfied the requirements of section 6007(c)(2)(A).

c. <u>Balancing of Harm to Attorneys and the Public, or the Likelihood that the Harm will Reoccur or Continue</u>

Section 6007(c)(2)(B) requires this Court to either weigh the relative injuries of both the public and the Respondents, or, in the alternative, to determine whether there is a reasonable likelihood that the harm will reoccur or continue.[33] In this matter, the proof of these two alternatives overlaps. That is, a finding that there is a reasonable likelihood that the harm caused by the Respondents will continue will also likely weigh heavily in the balancing between the public's harm and that of the Respondents. As such, this Order and Decision discusses both aspects of this factor, while focusing on the likelihood that the conduct will reoccur or continue.

Respondents have, on several occasions, indicated an intention of continuing with their conduct. In their Response and in oral argument in this matter, both their counsel and Respondent Han, who acted as co-counsel in oral argument, emphatically presented their

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[33]Specifically, in order to sustain the State Bar's position, the evidence must show and the Court must find that the attorney's clients or the public are likely to suffer greater injury if the involuntary inactive enrollment is denied than the attorney is likely to suffer if it is granted, or that there is a reasonable likelihood the harm caused by the attorney will reoccur or continue.

positions that Respondents did nothing wrong. While a party before this Court is not required "to become the fraudulent penitent for his own advantage,"[34] in a case of this type, this Court must examine the likelihood of similar conduct continuing in the future. To the extent Respondents fail to perceive that they are committing misconduct, it becomes far more likely that the proscribed behavior will continue.

The Application in this matter was filed and personally served on March 13, 2003. The filing of the Application was preceded by months of investigation of which Respondents were aware.[35] Fifteen days after the Application was filed and served, on March 28, 2003, Respondents' firm attended the hearing before Judge West, referred to above. One of the concerns in the case as expressed by Judge West was improper joinder. Respondents had previously suggested that they may amend to add a conspiracy theory, linking the defendants and the Bureau. At that hearing, Judge West questioned Respondent Han concerning this theory:

> THE COURT: Didn't you make an expressed representation in another court, when granted leave to amend on the conspiracy theory, that you had no facts to support that?
>
> MR. HAN: We did, your Honor. At that time, it was true, we did not have facts that we could use as evidence, or we felt was competent evidence to support the conspiracy charge.
> As of today, we have those facts and we can make that statement today.[36]

In other words, even after the investigation had begun, Respondents were planning ways they could expand the existing lawsuit to allege a conspiracy among the defendants.

When asked by Judge West if the prosecutions already being conducted by the District

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[34]See *Hall v. Committee of Bar Examiners* (1979) 25 Cal.3d 730, 744. See also *Calaway v. State Bar* (1986) 41 Cal.3d 743, 747; *Hightower v. State Bar* (1983) 34 Cal.3d 150, 157; *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509, 522-23.

[35]The record contains with correspondence involving Respondents and their office staff. See, for example, Attachment 1 to Exhibit 1, a letter from Bar investigator John Noonen dated December 19, 2002, referring to the pending investigation. This letter was responded to by Respondent Han on January 20, 2003. See Attachment 2 to Exhibit 1.

[36]Transcript at pp. 6:20 - 7:1, Bates stamp 26 - 27.

Attorneys and the Attorney General were not appropriate to protect the public, Respondent Han stated as follows:

> MR. HAN: No, your Honor. They're entirely appropriate. However, they are not enough.
> ...
> [The public prosecutors] do not go after the entire industry, and that's what our client's done. And that's what's different about this lawsuit, tha[n] any 17200 action brought b[y] a public prosecutor, this lawsuit brought by our client is designed to, has begun to, and will affect the entire industry and ensure the entire industry complies with the broad range of statutes designed to govern and enforce this industry.[37]

Once again, Respondents have global ambitions to expand their lawsuits to affect an entire industry.

In the March 28 hearing, Judge West learned (apparently for the first time) from Mr. Sybesma, counsel for Bridgestone/Firestone, that Respondents had dismissed a defendant, then reserved them as a "Doe" defendant in another county:

> THE COURT: ... Are you suggesting that there had been Does named in cases, in this county, that we have not brought into this court indeed related?
>
> MR. SYBESMA: I don't know. Counsel, just – in his argument said they had just named Bridgestone/Firestone as a Doe defendant in another case on March 13th. I don't know what case they're talking about.
>
> THE COURT: Mr. Han?
>
> MR. HAN: Yes, your Honor. It's in the Firestone Case that's related in this Case.
>
> THE COURT: So it's one of the related cases we have here?
>
> MR. HAN: It is.
>
> THE COURT: It's a Firestone Case. You named them as a named defendant and now you've named them as a Doe?
>
> MR. HAN: Yes.
>
> THE COURT: How do you do that?

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[37]Transcript at p. 15:5 - 20, Bates stamp 35.

MR. HAN: We simply replaced the Doe Company One with Firestone Tire and Service Center?

THE COURT: Was that the same party you had as the named defendant?
MR. HAN: Yes, your Honor.
...
MR. SYBESMA: I cite that, just as an illustration of the problem. ... The question is, what will prevent the plaintiff from going out and simply filing the lawsuit against all these defendants, as they've repeatedly done?[38]

It is this Court's view that Mr. Sybesma "hit the nail on the head". Respondents have shown a willingness to continue to engage in the same conduct, even when faced with, and while responding to, a State Bar investigation concerning the propriety of this very conduct. After meeting with a State Bar investigator, Respondents continued to litigate matters unjustifiedly (Glendale Infiniti and Westwood Tire), were dishonest with the Legislature and disregarded court orders in the automobile advertising cases.

It is not easy to predict what an attorney accused of misconduct will do in the future. Nevertheless, under section 6007(c)(2)(B), that is what this Court is called upon to do. Often, courts are only able to draw inferences from a respondent's past conduct in order to conclude as to likely future conduct. In this case, however, Respondent Han has assisted the Court. He stated the following during the March 28 hearing, when faced with the possibility that thousands of cases would be dismissed for improper joinder:

MR. HAN: And that is precisely what is going to happen **when** Consumer Enforcement Watch Corporation files these lawsuits separately against each defendant because of the court's holding that a procedural defect of misjoinder prevents this court from hearing them at once. This court will merely be putting off for another day to hear the substance and merits of this case. That is, in essence, what we're saying.[39] (Emphasis added)

Respondents have made clear their intentions. They have a plan that they intend to carry out. Unless prevented from doing so, there is a reasonable likelihood that harm to the public will reoccur or continue, and this Court so finds.

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[38]Transcript at pp. 20:19 - 21:24, Bates stamp 40 - 41.

[39]Transcript at p. 47:18 - 24, Bates stamp 67.

d. Conclusion

The State Bar has successfully addressed each of the elements of section 6007(c)(2). The Court, therefore, believes that the involuntary inactive enrollment of each Respondent is merited for the benefit of the public, the courts and the legal profession.

VI. ORDER

Accordingly, **IT IS HEREBY ORDERED** that Respondents Damian S. Trevor, Allan C. Hendrickson and Shane Chang Han be enrolled as an inactive member of the State Bar of California, pursuant to Business and Professions Code section 6007(c), effective three (3) days after service of this Order by mail. (Rule 466(b), Rules Proc. of State Bar.) The Clerk of the State Bar Court is ordered to give written notice of this Order to Respondents and to the Clerk of the Supreme Court of California.

IT IS FURTHER ORDERED that:

1. Within thirty (30) days of the effective date of this Order, each Respondent shall:

   (a) notify all clients being represented in pending matters and any co-counsel of his involuntary inactive enrollment and his consequent disqualification to act as an attorney and, in the absence of co-counsel, notify the clients to seek legal advice elsewhere, calling attention to the urgency in seeking the substitution of another attorney or attorneys in his place;

   (b) deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to the urgency of obtaining the papers or other property;

   (c) refund any part of any fees paid in advance that have not been earned; and

   (d) notify opposing counsel in pending matters, or in the absence of counsel, the adverse parties, of his involuntary inactive enrollment, and file a copy of the notice with the court, agency or tribunal before which the matter is pending for

inclusion in the respective file or files;

2. All notices required to be given by paragraph 1 of this Order shall be given by registered or certified mail, return receipt requested, and shall contain each Respondent's current State Bar membership records address where communications may thereafter be directed to him;

3. Within forty (40) days of the effective date of this Order, each Respondent shall file with the Clerk of the State Bar Court, an affidavit showing that he has fully complied with the provisions of paragraphs 1 and 2 of this Order. The affidavit shall also contain each Respondent's current State Bar membership records address where communications may thereafter be directed to him;

4. Each Respondent shall keep and maintain records of the various steps taken by him in compliance with this Order so that, upon any petition for termination of inactive enrollment, proof of compliance with this Order will be available for receipt into evidence. Each Respondent is cautioned that failure to comply with the provisions of this Order may constitute grounds for denying his petition for termination of inactive enrollment or reinstatement.

IT IS FURTHER ORDERED that, in light of this Court's order involuntarily enrolling Respondents as inactive members of the State Bar and pursuant to the provisions of rule 482 of the Rules of Procedure, the State Bar shall file a Notice of Disciplinary Charges in the matters addressed in this Decision within forty-five (45) days of the effective date of Respondents' involuntary inactive enrollment.

Dated: May 21, 2003

RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 21, 2003, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT, filed May 21, 2003

in a sealed envelope for collection and mailing on that date as follows:

[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KEVIN P GERRY ESQ
433 N CAMDEN DRIVE
4TH FLOOR
BEVERLY HILLS, CA 90210

SHANE C HAN ESQ
TREVOR LAW GROUP
468 N CAMDEN DR
2ND FLOOR
BEVERLY HILLS, CA 90210

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Jayne Kim, Enforcement, Los Angeles

Kimberly Anderson, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 21, 2003**.

Milagro del R. Salmeron
Case Administrator
State Bar Court